UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 23-6421 _____ Caption [use short title]

Motion for: Relief from the District Court's April 20, 2023 Order Denying Release Pending Trial

United States of America, Appellee

v.

Ho Wan Kwok, Defendant-Appellant

Set forth below precise, complete statement of relief sought:

The undersigned moves for reversal of the District Court's Order denying the pre-trial release of Defendant Ho Wan Kwok

MOVING PARTY: Ho Wan Kwok **OPPOSING PARTY:** United States of America

☐ Plaintiff ☑ Defendant

☑ Appellant/Petitioner ☐ Appellee/Respondent

MOVING ATTORNEY: Stephen R. Cook **OPPOSING ATTORNEY:** Juliana N. Murray; Micah F. Fergenson; Ryan B. Finkel

[name of attorney, with firm, address, phone number and e-mail]

Brown Rudnick LLP
2211 Michelson Drive, 7th Floor
(949) 752-7100; scook@brownrudnick.com

U.S. Dept' of Justice; Criminal Division, SDNY
One Saint Andrew's Plaza, New York, NY 10007
(212) 637-6612/ 2314 / 2190;juliana.murray@usdoj.gov; micah.fergenson@usdoj.gov; Ryan.Finkel@usdoj.gov

Court- Judge/ Agency appealed from: Hon. Analisa Torres, U.S. District Court for the Southern District of New York

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):
☑ Yes ☐ No (explain):

Opposing counsel's position on motion:
☐ Unopposed ☑ Opposed ☐ Don't Know

Does opposing counsel intend to file a response:
☑ Yes ☐ No ☐ Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUCTIONS PENDING APPEAL:

Has this request for relief been made below? ☐ Yes ☐ No

Has this relief been previously sought in this court? ☐ Yes ☐ No

Requested return date and explanation of emergency:

Is oral argument on motion requested? ☑ Yes ☐ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? ☐ Yes ☑ No If yes, enter date:

Signature of Moving Attorney:

/s/ Stephen R. Cook **Date:** 5/5/2023 Service by: ☐ CM/ECF ☑ Other [Attach proof of service]

United States Court of Appeals
for the
Second Circuit

No. 23-6421

UNITED STATES OF AMERICA,

Appellee,

– v. –

HO WAN KWOK, *et al.,*

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MOTION FOR RELIEF FROM ORDER DENYING PRE-TRIAL RELEASE

Stephen R. Cook
BROWN RUDNICK LLP
2211 Michelson Drive
Irvine, CA 92612
(949) 752-7100

William R. Baldiga
BROWN RUDNICK LLP
Seven Times Square
New York, NY 10036
(212) 209-4800

Counsel for Defendant-Appellant

May 5, 2023

PRELIMINARY STATEMENT

Mr. Kwok is not a flight risk. For years, he has been the target of a campaign by the Chinese Communist Party ("CCP") to dismantle the pro-democracy movement that he has led, and to force Mr. Kwok's return to the People's Republic of China ("PRC") where he will face politically motivated charges and likely execution. The Court need not take Mr. Kwok's word for this. The United States Department of Justice ("DOJ") has recounted the elaborate schemes directed at Mr. Kwok—devised and funded by the Chinese Communist Party ("CCP")—in a series of recent criminal prosecutions that read like spy novels.[1]

Four things make this case unique:

- The CCP has gone to great lengths to secure Mr. Kwok's repatriation to China by any means necessary—by coercion, force, or act of state. The PRC has issued INTERPOL Red Notices to law enforcement worldwide seeking Mr. Kwok's detention pending extradition to China. Mr. Kwok is a fugitive from the PRC and he is being actively pursued.

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[1] *See generally,* Exhibit 1, Ho Wan Kwok's Memorandum in Support of Application for Release on Bail Pending Trial filed March 31, 2023, ECF No. 24 ("Ex. 1—Bail Memorandum"); Exhibit 2, Ho Wan Kwok's Supplement to Application for Release on Bail Pending Trial filed April 19, 2023, ECF No. 50 ("Ex. 2—Supplement to Bail Memorandum"; Exhibit 10, Complaint and Affidavit in support of Application for an Arrest Warrant, *United States v. Jin*, Case No. 20-MJ-1103 (E.D.N.Y. Apr. 17, 2023) ("Ex. 10—Jin Complaint and Affidavit"); Exhibit 11, Complaint and Affidavit in support of Application for an Arrest Warrant, *United States v. Yunpeng*, Case No. 23-MJ-0334 (E.D.N.Y. Apr. 6, 2023) ("Ex. 11—Yunpeng Complaint and Affidavit").

- The CCP's campaign against Mr. Kwok ***explicitly*** involves spreading ***disinformation to discredit*** Mr. Kwok, and to ***incite and pressure U.S. law enforcement*** against him. This has been sworn to in an affidavit executed by a FBI Special Agent. There has been an active disinformation campaign against Mr. Kwok for years, and any evidence proffered in this case is due close scrutiny.
- In reviewing Mr. Kwok's Bail Application, the District Court was required to "ensure the reliability of the evidence by selectively insisting upon the production of the underlying evidence or evidentiary sources where their accuracy is in question." *United States v. LaFontaine*, 210 F. 3d 125, 131 (2d Cir. 2000). The District Court failed to do so, and instead accepted without scrutiny the Government's vague, misleading, and incorrect proffers of evidence concerning numerous legal and factual issues that may have been material to the District Court's determination.
- The Government contends that Mr. Kwok presents a serious risk of flight, obstruction, and danger of economic harm to the community. Mr. Kwok disagrees, but nonetheless proposed a set of bail conditions that reasonably address the Government's concerns, and that are "extraordinary." *See United States v. Sabhnani*, 493 F.3d 63, 77-78 (2d Cir. 2007). Various combinations of substantially similar conditions have

been found sufficient to ameliorate the risks of flight, obstruction, and danger presented by other wealthy defendants facing serious criminal fraud charges. For example, courts in this Circuit released Bernard Madoff and Sam Bankman-Fried subject to conditions less restrictive than those proposed by Mr. Kwok—even *after* Mr. Madoff and Mr. Bankman-Fried violated their *initial* conditions of release. Neither Mr. Madoff nor Mr. Bankman-Fried would have been in the unenviable position of being a wanted fugitive in both the United States and China were they to abscond, and yet the Government was able to agree to reasonable conditions of release. Comparatively speaking, Mr. Kwok is no flight risk at all.

The District Court was required to evaluate whether the Government met its burden of proving that (1) Mr. Kwok poses a serious danger of flight, obstruction, or danger to the community, and (2) that no condition or combination of conditions of pre-trial release can reasonably mitigate those risks. *See Sabhnani,* 493 F.3d at 75. In making this evaluation, the District Court was required to "ensure the reliability of the evidence by selectively insisting upon the production of the underlying evidence or evidentiary sources where their accuracy is in question." *LaFontaine*, 210 F.3d at 131 (internal quotation marks and citations omitted). It failed to do so, and instead accepted without scrutiny the Government's vague,

misleading, and incorrect proffers of evidence to deny Mr. Kwok's Application for Bail. Ensuring the reliability of the evidence proffered by the Government was particularly important here, where the Defendant is the victim of a well-documented disinformation campaign aimed at discrediting him and subjecting him to criminal prosecution.

This Court must reverse.

JURISDICTIONAL STATEMENT[2]

Defendant Ho Wan Kwok appeals from an order entered on April 20, 2023, in the United States District Court for the Southern District of New York, by United States District Judge Analisa Torres, detaining the Defendant before trial. [Ex. 8, Order Denying Pretrial Release ("Order"), ECF No. 51.] This Court has jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3145(c). Defendant-Appellant filed a timely notice of appeal on May 4, 2023. [Exhibit 15, Notice of Appeal filed on May 4, 2023, ECF No. 62.]

RELEVANT BACKGROUND

Mr. Kwok, a persistent and outspoken critic of the CCP, emigrated to the United States in 2015 and applied for political asylum two years later. [Exhibit 1, Ho Wan Kwok's Memorandum in Support of Application for Release on Bail Pending Trial filed March 31, 2023, ECF No. 24 ("Ex. 1—Bail Memorandum") at

2 Defendant-Appellant requests oral argument.

p. 7-9]. Mr. Kwok's personal and professional life are detailed in Defendant's Memorandum in Support of Application for Release on Bail Pending Trial, filed in the lower court on March 31, 2023, and will not be repeated at length here. [*Id.* at p. 5-11].

As perhaps *the* most prominent and globally recognized leader of the anti-CCP and Chinese pro-democracy movement, Mr. Kwok has been subjected to a relentless barrage of threats, harassment, surveillance, and electronic hacking attempts since at least 2017. [Exhibit 2, Ho Wan Kwok's Supplement to Application for Release on Bail Pending Trial filed April 19, 2023, ECF No. 50 ("Ex. 2—Supplement to Bail Memorandum") at p. 2.] These schemes reveal three apparent objectives: to spread malicious misinformation discrediting Mr. Kwok in the United States, China, and abroad; to use the U.S. civil and criminal legal system as a lever to pressure Mr. Kwok's return to China; and to force Mr. Kwok's extradition from the United States.

The CCP's objectives are laid bare in in two criminal complaints unsealed just last month in the United States District Court for the Eastern District of New York. [*See* Exhibit 10, Complaint and Affidavit in support of Application for an Arrest Warrant, *United States v. Jin*, Case No. 20-MJ-1103 (E.D.N.Y. Apr. 17, 2023) ("Ex. 10—Jin Complaint and Affidavit"); Exhibit 11, Complaint and Affidavit in support of Application for an Arrest Warrant, *United States v.*

Yunpeng, Case No. 23-MJ-0334 (E.D.N.Y. Apr. 6, 2023) ("Ex. 11—Yunpeng Complaint and Affidavit").] In these cases, the U.S. Attorney's Office for the Eastern District of New York has charged 40 defendants with various crimes related to an elaborate scheme by the PRC to silence and harass Chinese nationals residing in the United States. [Ex. 2—Supplement to Bail Memorandum at p. 2-3.] ***Mr. Kwok is designated as "Victim-1" of this scheme.*** The complaints detail the creation and use of fake social media accounts by agents of the PRC to harass and intimidate Chinese dissidents residing abroad, and a scheme to suppress the dissidents' free speech on the platform of a U.S. telecommunications company. [*See generally* Ex. 10—Jin Complaint and Affidavit at 1-2; Ex. 11—Yunpeng Complaint and Affidavit].

Far from being limited to social media propaganda, the CCP's attacks against Mr. Kwok included attempts to incite and pressure U.S. law enforcement action against him, including criminal prosecution and/or forceful extradition to China. [Ex 2—Supplement to Bail Memorandum at p. 3]. The Yunpeng Complaint and Affidavit, executed by an FBI Special Agent, describes in striking detail how Mr. Kwok has been the victim of virtually every conceivable form of attack short of outright assassination by the CCP. [*Id.*] As the Yunpeng Complaint and Affidavit demonstrates, the DOJ is cognizant of the CCP's disinformation

campaign, ***seeking to discredit Mr. Kwok and to incite U.S. law enforcement action*** against him:

- The CCP's Ministry of Public Security ("MPS") "routinely monitors, among others, Chinese political dissidents who live in the United States . . . . The MPS regularly uses cooperative contacts both inside the PRC and around the world to influence, threaten and coerce political dissidents abroad. Indeed, ***I am aware that the PRC government has threatened and coerced Chinese political dissidents living in the United States in an effort to silence them.***" [*Id.* (emphasis added).]
- A task force within the MPS, defined in the FBI Affidavit as "the Group," "***seeks to undermine the credibility of these [CCP] critics" living in the United States*** and elsewhere. [*Id.* (emphasis added).]
- The Group was expressly tasked with creating and posting internet content targeting and maligning Mr. Kwok, who was a ***"primary focus of the Group's harassment scheme."*** [*Id.* (emphasis added).]
- The CCP agents were tasked ***"to call on U.S. law enforcement to take prompt action against Victim-1."*** [*Id.* (emphasis added).]
- "Since Victim-1 fled the PRC, the PRC government has sought his/her return for prosecution in the PRC and has ***employed numerous***

methods to effect Victim-1's capture or arrest." [*Id.* (emphasis added).]

But this is just the latest in a series of shocking criminal prosecutions charging agents of the PRC in connection with schemes to secure Mr. Kwok's extradition to China, where he would almost certainly be executed. [Ex. 1—Bail Memorandum at p. 9.] The record shows that a cast of political operatives, lobbyists, and even a senior DOJ official infiltrated the United States government at the highest levels and took millions of dollars in illegal payments in connection with a 2017-2018 scheme orchestrated by the CCP to force Mr. Kwok's extradition to the PRC:

- On November 18, 2018, former DOJ attorney ***George Higginbotham*** pleaded guilty to conspiracy to make false statements to a bank about the source and purpose of millions of dollars sent from overseas to finance an unregistered lobbying campaign on behalf of foreign interests. [Ex. 1—Bail Memorandum at p. 10, fn. 11; Ex 2—Supplement to Bail Memorandum p. at 2.] One purpose of the lobbying campaign "was an attempt to persuade high-level U.S. government officials to have [Mr. Kwok], who was residing in the United States on a temporary visa at the time, removed from the

United States and sent back to his country of origin." [Ex. 1—Bail Memorandum at p. 10, fn. 11.]

- On October 6, 2020, former Republican National Committee chair ***Elliott Broidy*** was charged with conspiracy to serve as an unregistered agent of a foreign principal, in connection with the 2017-2018 scheme. [Ex. 2—Supplement to Bail Memorandum at p. 2.] Broidy pleaded guilty on October 20, 2020. [Ex. 1—Bail Memorandum at p. 10, fn. 10.]
- On August 31, 2020, American businesswoman **Nickie Lum Davis**, pleaded guilty for her role in facilitating the 2017-2018 scheme. [Ex. 1—Bail Memorandum at p. 10.]
- **Prakazrel Michel**, best known as part of the 90s hip-hop group the Fugees, was convicted on April 26, 2023 on charges related to the unregistered back-channel lobbying campaign aimed, in part, at seeking Mr. Kwok's extradition to China. [U.S. DEP'T OF JUST., U.S. ENTERTAINER CONVICTED OF ENGAGING IN FOREIGN INFLUENCE CAMPAIGN (Apr. 26, 2023) https://www.justice.gov/opa/pr/us-entertainer-convicted-engaging-foreign-influence-campaign.] He faces a maximum penalty of 20 years in prison. [*Id.*]

There can be no doubt that the CCP is intent on securing Mr. Kwok's return to the PRC.

It is also well-documented that the CCP has used civil litigation in the United States as a lever to discredit Mr. Kwok and force his return to China. [Exhibit 3, Transcript of Bail Proceedings held as to Ho Wan Kwok on April 4, 2023 ("Ex. 3—4/4/23 Bail Hearing Trans.") at 29:03-17.] In July 2000, the Wall Street Journal published an article, "China's New Tool to Chase Down Fugitives: American Courts" that reports how "Beijing is turning to lawsuits to pressure expatriates to return home and face corruption charges as an end run around U.S. law." [*Id.*] Mr. Kwok knows this all too well—the civil litigation that ultimately led to his bankruptcy filing was instigated and financed by the CCP. [*Id.*]

SUMMARY OF PROCEEDINGS BELOW

Mr. Kwok was arrested and arraigned on March 15, 2023 on an eleven-count indictment charging wire fraud, securities fraud, and money laundering. [Ex. 4—3/15/23 Arraignment Trans.; Ex. 1—Bail Memorandum at 3; Ex. 5—Superseding Indictment.] That same day, the Government submitted a letter brief seeking Mr. Kwok's pretrial detention, contending that Mr. Kwok poses a significant risk of flight and of danger to the community. [Exhibit 6, United States' March 15, 2023 Letter Brief re: Detention, ECF No. 7 ("Ex. 6—Detention Memorandum") at 1]. On March 31, 2023, Mr. Kwok filed his Application for Release on Bail Pending

Trial ("Application for Bail"), setting forth the facts and circumstances counseling his release, and proposing a robust bail package. [Ex. 1—Bail Memorandum.] The Government filed its opposition on April 3, 2023. [Exhibit 7—Government's Opposition to Ho Wan Kwok's Memorandum in Support of Pretrial Release, filed April 3, 2023, ECF No. 26 ("Ex. 7—Opposition to Bail Memorandum").] On April 4, 2023, the District Court arraigned Mr. Kwok on the Superseding Indictment returned by the grand jury on March 29, 2023, and reserved decision on Mr. Kwok's bail application (the "Bail Hearing"). [Ex. 3—4/4/23 Bail Hearing Trans.]

On April 19, 2023, Mr. Kwok submitted to the District Court a letter supplementing his Application for Bail with additional information requested by the District Court and providing new information concerning the recently charged, PRC-directed scheme to discredit Mr. Kwok and incite U.S. law enforcement action against him, detailed on pages 5-8, *supra*. [Ex. 2—Supplement to Bail Memorandum.] The next day, on April 20, 2020, the District Court issued its opinion denying Mr. Kwok's Application for Bail (referred to herein as the "Opinion"), finding that the Government had met its burden of showing by a preponderance of the evidence that Mr. Kwok presents a serious risk of flight and obstruction, and by clear and convincing evidence that Mr. Kwok poses a risk of economic harm to the community, and concluding that no condition or set of

conditions would ensure Mr. Kwok's return to court or the safety of the community. [Ex. 8—Opinion at 5-12.]

STANDARD OF REVIEW

This Court reviews *de novo* the District Court's judgment with respect to conclusions of law. *See United States v. Abuhamra*, 389 F.3d 309, 317 (2d Cir. 2004). The factual findings underlying those conclusions are reviewed for clear error. *See United States v. English*, 629 F.3d 311, 319 (2d Cir. 2011). Although this Court's review is deferential, it is guided by a presumption in favor of release and the principle that bail may be denied only in a "rare case of extreme and unusual circumstances." *See United States v. Berrios-Berrios*, 791 F.2d 246, 251 (2d Cir. 1986). Because the district court's "determination of the viability of alternatives to detention must be, in every case, a mixed question of fact and law . . . [s]uch questions are subject to flexible appellate review." *Id.*

ARGUMENT

The Bail Reform Act, 18 U.S.C. § 3141 *et seq.*, codifies the Eighth Amendment's guarantee of bail, requiring district courts to order the pre-trial release of the defendant "unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community." *United States v. Boustani,* 932 F.3d 79, 81 (2d Cir. 2019) (quoting 18 U.S.C. § 3142(b)); *Sabhnani*,

493 F.3d at 78 (noting that even where a court determines that a defendant poses a flight risk, there remains a statutory presumption in favor of the defendant's release "unless the government demonstrates that no conditions of release can be imposed to assure the defendant's appearance in court").

The trial court's analysis is therefore twofold. First, the court must determine whether the Government has met its burden and established by a preponderance of the evidence that the defendant "presents a risk of flight or obstruction of justice." *United States v. Madoff*, 586 F.Supp.2d 240, 247 (2d Cir. 2009). If the court finds that the Government has met this initial burden, the court must then evaluate whether there are reasonable conditions of release that can ameliorate the risk. *Id.; see also Sabhnani*, 493 F.3d at 75.

In determining whether there are conditions of release that will reasonably assure the appearance of the defendant and the safety of the community, courts evaluate four factors: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant; and (4) the nature and seriousness of the danger to the community posed by the defendant. *See* 18 U.S.C. § 3142(g); *Boustani*, 932 F.3d at 81. "An order of detention based on the safety of other persons and the community must rest on a finding supported by clear and convincing evidence," *United States v. Stein*, No. S1 05 Crim. 0888 (LAK), 2005 WL 8157371, at *1 (S.D.N.Y. Nov.

14, 2005), while detention based on the defendant's perceived flight risk must be supported by a preponderance of the evidence. *See Boustani*, 932 F.3d at 81; *Sabhnani*, 493 F.3d at 75.

I. The District Court Made an Error of Law Regarding the Effect of Pending Criminal Charges on Mr. Kwok's Ability to Legally Remain in the U.S.

Based on no more than the Government's conclusory arguments, the District Court improperly adjudicated the impact of pending criminal charges on Mr. Kwok's eligibility to remain in the United States. In the Opinion, the District Court found that if Mr. Kwok's asylum "application is denied, he will no longer be legally present in the United States" and that "the charges in this case may be grounds for denial of Defendant's asylum application." [Ex. 8—Opinion at 5.] The District Court repeated this assertion later, opining that "the charges in this case seriously undermine Defendant's eligibility for asylum." [*Id.* at 7.] The District Court's reasoning here is properly subject to clear error reversal for at least two separate reasons.

First, while in some cases, a *conviction* for a criminal offense that occurred in the United States may have an effect on an asylum application, *see* 8 U.S.C. § 1158(b)(2)(A)-(B); 8 C.F.R. § 208.13(c)(6), the mere *filing* of criminal charges—without a further evidentiary showing by the Government—does not serve as a statutory bar to a grant of asylum. [*See* Ex. 6—Detention Memorandum at 2.] The

District Court's bare assertion that "the charges in this case may be grounds for denial of Defendant's asylum application" is a misstatement of law. With only a single inapplicable exception,[3] the asylum statute and its associated regulations, in accordance with principles of due process under the Fifth and Fourteenth amendments, require that the government *prove* that a defendant is guilty before secondary consequences, such as denial of asylum, become mandatory. But even if Mr. Kwok's application were denied, as set forth below, Mr. Kwok will not necessarily be removed from the United States.

The initial denial of a pending asylum application does not necessarily terminate an alien's legal right to be present in the United States. Rather, the initial denial of an asylum application is just the first in a series of legal steps whereby an alien may be afforded the opportunity to challenge an asylum determination or deportation order while lawfully remaining in the United States. *See, e.g.*, *Nken v. Holder*, 556 U.S. 418, 425 (2009) (noting parties' agreement that the court of appeals considering a petition for review of a removal order may prevent that order from taking effect and therefore block removal while adjudicating the petition). Mr. Kwok raised this issue to the District Court below, citing potential appeals

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[3] *See* 8 C.F.R. § 208.13(c)(6) (providing asylum ineligibility for an alien who "has been convicted" of certain crimes or when an asylum officer "knows or has reason to believe that the alien has engaged … in acts of battery or extreme cruelty as defined in 8 C.F.R. 204.2(c)(1)").

under the Convention Against Torture ("CAT"), which the District Court summarily dismissed as "speculative" in a footnote. [*See* Ex. 8—Opinion at 7, fn. 2.] Importantly, in light of the CCP's serious persecution of Mr. Kwok, both in the PRC and abroad, a successful CAT application is probable. Furthermore, alternative routes and appeals exist that would readily allow for Mr. Kwok to remain in the United States while adjudication of these claims is ongoing. For example, should the Department of Homeland Security–United States Citizenship and Immigration Service ("DHS-USCIS") deny Mr. Kwok's asylum application, he would have the ability to appeal the order denying asylum status.

In any case, it was improper for the District Court to rely upon Mr. Kwok's immigration status as a factor weighing in favor of his pre-trial detention. As the Tenth Circuit noted, "although Congress established a rebuttable presumption that certain defendants should be detained, it did not include removable aliens on that list." *See United States v. Ailon-Ailon*, 875 F.3d 1334, 1338 (10th Cir. 2017).

Mr. Kwok also seeks reversal because of the potential that the District Court's reliance on the Government's misstatement of the law could unjustly affect Mr. Kwok's pending application for asylum. To the extent that the DHS-USCIS is following Mr. Kwok's case, the District Court's Order has the potential to misinform and misdirect that tribunal regarding the proper impact the pending criminal charges may have on Mr. Kwok's application for asylum. Allowing the

Order to stand in its current form risks unjustly prejudicing Mr. Kwok's application.

The District Court erred as a matter of law and this Court must reverse.

II. The District Court Committed Reversible Error in Relying Upon the Government's Vague and Misleading Proffer Without Reference to the Substantial Countervailing Evidence Presented by Mr. Kwok

The law in this Circuit is clear: while "it would [not] be an abuse of discretion for the district court to permit the government to proceed by proffer alone," *United States v. Davis*, 845 F.2d 412, 415 (2d Cir. 1988), "[a]n order of detention based on the safety of other persons and the community must rest on a finding supported by clear and convincing evidence." *United States v. Stein*, No. S1 05 Crim. 0888 (LAK), 2005 WL 8157371, at *1 (S.D.N.Y. Nov. 14, 2005). The district judge must "ensure the reliability of the evidence, 'by selectively insisting upon the production of the underlying evidence or evidentiary sources where their accuracy is in question.'" *LaFontaine*, 210 F.3d at 131 (quoting *United States v. Martir*, 782 F.2d 1141, 1147 (2d Cir. 1986)). It is not sufficient for the Government's proffer to simply state in conclusory terms what it hopes to prove, and the District Court was required to look deeper.

The District Court's obligation to put the Government to its proof was *critical* here—the DOJ itself has proclaimed Mr. Kwok to be "Victim-1" in a campaign by the CCP to spread disinformation to discredit Mr. Kwok and to incite

U.S. law enforcement action against him. The District Court clearly erred by accepting the Government's vague and misleading proffer, without reference to the substantial countervailing evidence presented by Mr. Kwok, in connection with the following inaccurate findings of fact material to the District Court's order of detention:

i. *The Passports*

The District Court wholesale adopted the Government's unsupported contention that the "[d]efendant is able to obtain travel documents with ease," (Ex. 8—Opinion at 6) but the Government's own filing fails to provide sufficient or adequate support for this proposition. The District Court correctly notes that law enforcement officials confiscated the passports recovered during a March 15, 2023 search, and Mr. Kwok previously surrendered his passport from the UAE, but nonetheless reaches the flawed conclusion that because Mr. Kwok *previously* had travel documents "it is clear that [he] is able to obtain travel documents with ease," further stating without *any* factual support that "a clever defendant with sufficient resources could figure out a way to leave the country without travel documents." [Ex. 8—Opinion at 6.] Of course, even if that conclusory statement could be credited, it would apply to innumerable defendants, nearly all of whom have been granted bail.

Importantly, the Government has not demonstrated that Mr. Kwok currently possesses *any* travel documents, and the District Court's summary conclusion that Mr. Kwok *does possess* travel documents is clearly erroneous. The Government has seized Mr. Kwok's Hong Kong passport, and it is currently inaccessible to him. [Ex. 2—Supplement to Bail Memorandum at 1.] The Government also seized a Vanuatu passport that was expired, and in any event, is no longer accessible to Mr. Kwok. [*Id.*] Finally, Mr. Kwok submitted the sworn testimony of his immigration counsel attesting that, as part of Mr. Kwok's asylum application process, his UAE citizenship had been renounced and his UAE passport surrendered to officials of that country. [*Id.* at 2.] The *only* evidence proffered by the Government and cited by the District Court in support of the contention that Mr. Kwok has (or ever had) *any* additional travel documents is the purported transcript of an April 4, 2017 media interview, translated from Mandarin to English and filed in connection with nuisance litigation brought against Mr. Kwok by a Chinese conglomerate with ties to the CCP. [Ex. 8—Opinion at 6.] Even, assuming *arguendo*, that Mr. Kwok had access to travel documents, the problem of Mr. Kwok being a wanted fugitive in both the United States and China would remain—Mr. Kwok simply isn't a flight risk.

ii. *The Yacht*

The District Court improperly accepted the Government's proffer that Mr. Kwok has the means to escape because he purportedly "has access to a yacht." [Ex. 8—Opinion at 6.] As set forth in evidence submitted *by the Government* to the Court, on March 27 and March 31, 2023, the bankruptcy court ordered that ownership of the "Lady May," and "Lady May II," be transferred to Luc A. Despins, as Chapter 11 Trustee (the "Trustee") for the estate of Ho Wan Kwok (the "Bankruptcy Estate"). [Ex. 7—Opposition to Bail Memorandum at Exhibit G.] To the extent he ever did, Mr. Kwok clearly has no access to these assets now because they are in the custody of the Trustee.

iii. *The Jet*

The District Court incorrectly relied on the Government's misleading contention that Mr. Kwok has access to a jet. [Ex. 8—Opinion at 6.] This argument is especially misleading. The Government knows that the "jet" in question is a Cirrus SF50—a small, single engine aircraft with an average range of 950 miles and a maximum range of 1,275 miles[4]—located in the United Kingdom. [*See* Ex. 7—Opposition to Bail Memorandum at 21.] It is implausible to suggest that an aircraft located in the United Kingdom—*an aircraft that could not make it halfway across the Atlantic Ocean*—could offer Mr. Kwok a means to abscond from New York.

[4] https://cirrusaircraft.com/aircraft/vision-jet/

iv. *Mr. Kwok's Family*

The District Court adopted the Government's logically and factually incoherent argument that Mr. Kwok's "incentive to remain in the United States due to his daughter's presence is tantamount to his incentive to flee to the United Kingdom, where his son resides." [Ex. 8—Opinion at 5.] This is nonsensical—as a fugitive from the United States, Mr. Kwok would be cut off from *both of his children and his wife*. Mr. Kwok's son is free to travel from the United Kingdom; there is presently no bar to him visiting Mr. Kwok in the United States. The same cannot be said of Mr. Kwok's wife and daughter who require authorization to travel outside of the United States while their applications for asylum are pending. If Mr. Kwok were to flee, it is likely that he would never see his wife and daughter again. It is *not* the case that Mr. Kwok will never again see his son if he stays in the United States to defend himself.

v. *Mr. Kwok's Personal Characteristics*

The Government and the District Court both make much of Mr. Kwok's immigration status, his perceived resources, and his purported motive to flee. The simple fact is that Mr. Kwok has known that he is a target of a federal criminal investigation for the better part of a year ***and did not flee***. [Ex. 4—3/15/23 Arraignment Trans. at 21:19-21]. He did not flee in June 2020, when "domestic banks began freezing and closing accounts associated with GTV." [Ex. 8—

Opinion at 3.] He did not flee in the wake of the United States Securities and Exchange Commission ("SEC") Order. [Exhibit 9, Order Denying Pretrial Release entered April 20, 2023, ECF No. 51 ("Ex. 9—SEC Order).] He did not flee in September 2022, when U.S. authorities served seizure warrants on domestic banks, "seizing approximately $355 million from Himalaya Exchange and other entities associated with [Mr. Kwok]." [Ex. 8—Opinion at 4]. He did not flee when "many of his entities received [grand jury] subpoenas." [Ex. 3—4/4/23 Bail Hearing Trans. at 18:14-15]. Mr. Kwok did not flee in October 2022, when the Government notified his immigration counsel that he was a target of the grand jury investigation that culminated in the present charges against him.

In contrast, the Government alleges that Mr. Kwok's co-defendant, Mr. Je, took advantage of this notice and absconded to the UAE. [Ex. 8—Opinion at 5.] Despite having the same notice available to Mr. Je, Mr. Kwok went *nowhere*. He continued to reside in the same residences he had occupied for years, he did nothing to conceal the multiple cellphones, cellphone scrambler, Faraday bags, and cash that the Government attempts to spin as evidence that Mr. Kwok presents a flight risk. [Ex. 3—4/4/23 Bail Hearing Trans. At 22:03-11.] This is not evidence of a man seeking to flee; it is evidence of a man who had decided to stay in the face of the criminal charges that he knew were coming any day.

vi. *Mr. Kwok's UAE Connections*

The District Court also appears to credit the Government's contention that Mr. Kwok is likely to flee to the UAE which has no extradition treaty with the United States. [Ex. 8—Opinion at 5-6.] This is absurd. While it is true that the UAE would not be required by treaty to extradite Mr. Kwok to the United States, it *would* extradite him to China. In addition to an extradition treaty, China and the UAE share extensive financial connections: of all of the Gulf states, the UAE is China's number one beneficiary of foreign investment. [Ex. 3—4/4/23 Bail Hearing Trans. at 72:03-14.] As Mr. Kwok's counsel explained at the Bail Hearing, the UAE is probably the worst place Mr. Kwok could go, second only to China itself. [Ex. 3—4/4/23 Bail Hearing Trans. at 72:12-13.]

The District Court clearly erred in relying upon the Government's vague and misleading proffer without reference to the substantial countervailing evidence Presented by Mr. Kwok. This Court must reverse.

III. The District Court Clearly Erred in Concluding that Mr. Kwok Presents a Danger to the Community

The District Court committed reversible error in finding that Mr. Kwok presents a danger to the community. In the Opinion, the District Court concluded that Mr. Kwok presents an economic danger to the community based only on the Government's vague assertion that in March 2022, Mr. Kwok "encouraged" recipients of Fair Fund disbursements "to re-invest their disbursements in the fraud

scheme alleged in this case," and the allegation that in February 2023, Mr. Kwok announced a new stock offering involving Himalaya Exchange. [Ex. 8—Opinion at 12.] This is not evidence, much less evidence that is clear and convincing of Mr. Kwok's serious danger to the community.

A. The Evidence Proffered by the Government Does Not Support the District Court's Finding That Mr. Kwok Encouraged Recipients of Fair Fund Disbursements to Invest in a Fraud Scheme Charged in this Case

The Government offered absolutely no detail concerning the reports it claims to have received from Fair Fund disbursement recipients who were allegedly "encouraged" by Mr. Kwok to "re-invest their disbursements in the fraud scheme alleged in this case." [Ex. 6—Detention Memorandum at 10.] The Government has not disclosed when, where, or how Mr. Kwok "encouraged" these individuals. It has not offered any information as to their number, their credibility, or the specifics of their individual reports. The Government has not specified whether it alleges that Mr. Kwok contacted these individuals personally, or whether they simply happened upon content he posted on social media. Moreover, neither the Government nor the District Court identify which "fraud scheme alleged in this case" Mr. Kwok allegedly "encouraged" "victims" to re-invest in.[5]

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5 Such evidence would be particularly important here, where the DOJ has already acknowledged, under oath, that CCP agents routinely attempt to infiltrate Mr. Kwok's organizations (and those of other dissidents) in order to undermine from within, and to make false complaints to regulators and law enforcement. [Ex. 11—Yunpeng Complaint and Affidavit.]

Far from clear and convincing, the Government's own allegations in the Superseding Indictment raise questions as to which "fraud scheme alleged in this case" the Government and the District Court could possibly be referring. The Government alleges four fraud schemes in the Superseding Indictment: (1) The GTV Private Placement, (2) The Farm Loan Program, (3) G|CLUBS, and (4) The Himalaya Exchange. [Ex. 5—Superseding Indictment at ¶¶ 13-23.] The fraud alleged in connection with the GTV Private Placement arises out of the same facts charged in the SEC Order that gave rise to the settlement and the subsequent Fair Fund disbursements, beginning in April 2022. [Ex. 5—Superseding Indictment at ¶ 13; Ex. 9—SEC Order.] Clearly, this cannot be the fraud scheme the Government and the District Court believe Mr. Kwok "encouraged" individuals to re-invest in in April 2022. The Government alleges that the Farm Loan Program began in or around June 2020. [Ex. 5—Superseding Indictment at ¶ 14.] The Superseding Indictment makes no mention of *any* conduct related to the Farm Loan Program that post-dates 2020, making it improbable that the District Court could have understood this to be the "fraud scheme alleged in this case" for which Mr. Kwok solicited investments in April 2022. Similarly, the Superseding Indictment represents that Mr. Kwok fraudulently obtained victim funds through G|CLUBS from "at least in or about October 2020 through at least in or about March 2023," but alleges no specific conduct later than August 2021. [Ex. 5—Superseding

Indictment at ¶¶ 15-16.] No evidence proffered by the Government in its brief or at the Bail Hearing could reasonably have formed the basis for the District Court's understanding that *this* is the "fraud scheme alleged in this case." [Ex. 8—Opinion at 12.]

The Government alleges the Himalaya Exchange fraud scheme ran from at least April 2021 through at least March 2023. [Ex. 5—Superseding Indictment at ¶ 17.] It is possible that the alleged Himalaya Exchange fraud is the scheme for which the District Court believes Mr. Kwok solicited investments in April 2020. It is nonetheless worth noting that the most recent conduct alleged related to the Himalaya Exchange fraud occurred "[i]n or about April 2022" when Mr. Kwok's co-defendant "arranged for the transfer of approximately $37 million in Himalaya Exchange funds" for a "purported 'loan' to cover the cost of a luxury yacht." [*Id.* at ¶¶ 17-23.] It is far from obvious, however, that this is the "clear and convincing evidence" the District Court believes supports its conclusion that Mr. Kwok "will continue to cause economic harm to the community if released." [Ex. 8—Opinion at 12.]

B. Mr. Kwok Did Not Violate Established Law and Was Not Bound by the SEC Order

Setting aside the factual infirmities in the District Court's analysis, ***even if accepted as true***, the Government's allegations do not support a finding by clear and convincing evidence that Mr. Kwok presents a serious danger of economic

harm to the community. The SEC Order indicates that it is the product of settlement negotiations between the SEC and Respondents, and that Respondents consented to the entry of the SEC Order "[s]olely for the purpose" of "proceedings brought by or on behalf of the Commission, or to which the Commission is a party," "without admitting or denying the findings" therein. [Ex. 9—SEC Order at 1.] The District Court's reliance upon the SEC Order in its analysis of the alleged danger Mr. Kwok poses to the community is therefore improper.

The Second Circuit has previously noted that the Federal Rules of Evidence ("FRE") prohibit "a plea of nolo contendere from being later used against the party who so pleaded" and that such pleas "have been equated with 'consent decrees.'" *Lipsky v. Commonwealth United Corp*., 551 F.2d 887, 893 (2d Cir. 1976). Because consent decrees and pleas of nolo contendere are "not true adjudications on the underlying issues," their relevance and use are necessarily limited: "[A] prior judgment can only be introduced in a later trial for collateral estoppel purposes if the issues sought to be precluded were actually adjudicated in the prior trial." *Id*. at 893-94. In the years after *Lipsky* was decided, the Second Circuit clarified that because civil consent decrees with administrative agencies are "the settlement of a civil suit," their use "is governed by Fed. R. Evid. 408" and that litigants are therefore barred from using that "evidence of a compromise to prove liability for the claim," but that they may be used "for other purposes" under FRE 408. *United*

States v. Gilbert, 668 F.2d 94, 97 (2d Cir. 1981). Federal Rule of Evidence 408 provides specific examples of how such compromises may be used, including "proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution." Fed. R. Evid. 408(b). In all of these examples of other permissible purposes, the consistent thread is that the use must be limited to establishing some ancillary fact ultimately unrelated to any alleged legal liability.

In the order denying release, however, the District Court explicitly accepted, affirmed, and utilized the unproven allegations of wrongdoing found in the SEC Order. For example, the Order notes that the SEC set up a fund that issued disbursements to "victims," (Ex. 8—Opinion at 12) and that "[d]espite the SEC's order in September 2021 . . . , Defendant has *continued to promote* fraudulent investment opportunities to his followers and *attempted to revictimize those who* ***received disbursements from the SEC fund.***" [*Id*. (emphasis added).] Using the consent decree in this manner conflicts with the permissible uses provided under FRE 408 and Second Circuit precedent. *See, e.g.*, *In re Platinum and Palladium Commodities Litig.*, 828 F.Supp.2d 588, 593-94 (S.D.N.Y. 2011) (striking allegations of a manipulative trading scheme because "those allegations simply recast the CFTC's findings and are derived wholesale from the CFTC order, and that

such "allegations are paradigms of the type of pleadings prohibited by *Lipsky* and its progeny").

Moreover, while the SEC Order includes an undertaking by Respondents to "[n]ot participate, directly or indirectly, in any offering of a digital asset security," *Mr. Kwok is not a party to the SEC Order*. [Ex. 9—SEC Order.] The Government alleges in the Superseding Indictment that Mr. Kwok exercised control over GTV's finances but admits that he held "no formal position or title" at GTV. [Ex. 5—Superseding Indictment at ¶ 10]. As for GTV's parent company, Saraca, the Government alleges that "Relative-1"—not Mr. Kwok—is the ultimate beneficial owner. [*Id.* at ¶ 9.] Further, as explained above, the only "fraud charged in this case" for which Mr. Kwok plausibly could have solicited investments in April 2022 relates to the allegations concerning Himalaya Exchange. And, like Mr. Kwok, Himalaya Exchange was not among the Respondents to the SEC Order. [Ex. 9—SEC Order.] There is no precedent in this Circuit for denying bail to a defendant under these circumstances.

It is unconscionable to deem Mr. Kwok a serious danger to the community such that the presumption of pre-trial release is set aside on the basis of conduct that, at best, reflects a disagreement between Mr. Kwok and the SEC as to the state of the law. This Court must reverse.

IV. The District Court Committed Reversible Error in Concluding Without Analysis or Explanation That There is No Set of Conditions That Will Reasonably Alleviate Any Risks Presented by Mr. Kwok's Release

The Government must also prove that no condition or combination of conditions could be imposed on the defendant that would reasonably assure his presence in court and the safety of the community. *United States v. Salerno*, 481 U.S. 739, 742 (1987). It is incumbent upon the court to consider all possible alternatives to preventative detention and "to explain on the record the extent to which it considered any alternatives to incarceration and, if so, on what basis they were rejected." *Berrios-Berrios*, 791 F.2d at 251 (noting that consideration of these factors is important even where the district court has found a defendant poses a risk of flight, because "many courts have set bail for defendants despite their propensity to flee").

The District Court failed to adequately explain on the record the extent to which it considered alternatives to Mr. Kwok's pre-trial detention, and, if applicable, on what basis they were rejected. The District Court also erred in concluding that there is no condition or set of conditions available that will reasonably alleviate any risks posed by Mr. Kwok's pre-trial release. This is reversible error.

i. *Appearance Bond and Co-Signers*

Mr. Kwok proposed an appearance bond of $25 million, to be signed by Mr. Kwok and two financially responsible adults, one of whom is not a family member, $5 million of which would be secured by cash deposited with the Court, real estate assets, or a combination of both. [Ex. 1—Bail Memorandum at 11]. Echoing the Government's objections, the District Court noted that the Government would be "one in a long line of creditors" in Mr. Kwok's bankruptcy proceedings if the Government ultimately had to enforce the bond. [Ex. 8—Opinion at 12]. This is incorrect. As he has stated in sworn testimony many times, and as the District Court acknowledged in its Opinion, Mr. Kwok has no substantial property of his own. [*Id.* at 12]. He has proposed an appearance bond of $25 million, $5 million of which will be secured by a combination of cash deposited with the Court and/or real estate assets. [Ex. 1—Bail Memorandum at 11].

The District Court also erred in rejecting Mr. Kwok's proposal to have "two financially responsible adults, one of whom is not a family member" sign his appearance bond. [Ex. 8—Opinion at 12; Ex. 1—Bail Memorandum at 11.] The District Court noted that "several of Defendant's family members, including his wife and daughter, are referred to in the Superseding Indictment as recipients of fraud proceeds" and objected to the bond proposal on the grounds that Mr. Kwok had not identified any co-signers that the Government and the District Court find acceptable. [Ex. 8—Opinion at 13.]

Mr. Kwok was not required to identify co-signers in his Bail Proposal. It was not his burden to prove that there are conditions of release that would mitigate any risk of flight, obstruction, or danger. *The Government* bears the burden of proving—by a preponderance of the evidence with respect to risk of flight or obstruction and by clear and convincing evidence with respect to risk of economic danger to the community—the *absence* of a combination of conditions that would reasonably assure Mr. Kwok's presence in court and the safety of the community. *See United States v. Shakur*, 817 F.2d 189, 195 (2d Cir. 1987); *Sabhnani*, 493 F.3d at 75 ("[A]t times, the government may have thought that this second burden fell on the defendant, or that it had the benefit of a statutory presumption of detention that the defendant was required to rebut . . . Plainly, such a view would be incorrect.").

The question before the District Court was not whether Mr. Kwok can *satisfy* any given condition of release, but rather whether there *exists* a condition or combination of conditions that will reasonably assure Mr. Kwok's presence in court and the safety of the community. The answer is "yes." Despite the Government's concerns, Mr. Kwok is confident that he can secure his appearance bond with assets *not* encumbered by his bankruptcy proceedings and *not* tainted by the Government's fraud allegations, and that he can identify two financially responsible adults *not* connected to the alleged fraud to co-sign.

ii. *Electronic Monitoring and Home Detention with Private Security*

The District Court flatly rejected Mr. Kwok's proposal for home detention subject to 24/7 surveillance because "it is not as reliable as federal jail." [Ex. 8—Opinion at 13.] The district court likewise rejected Mr. Kwok's proposal to include location monitoring as a condition of his release, stating that "GPS monitoring is inadequate, as ankle monitors can be removed and ensure only a reduced head start should a defendant decide to flee." [Ex. 8—Opinion at 13.]

Setting aside Mr. Kwok's family wealth, there is no reason to consider him a flight risk; indeed, the facts described in Mr. Kwok's Bail Memorandum demonstrate the exact opposite. [*See generally* Ex.1—Bail Memorandum.] In effect, the Government's argument boils down to the contention that Mr. Kwok presents a risk of flight because he possesses the means to flee. [Ex. 7—Opposition to Bail Memorandum at 12-13]. And in the Opinion, the District Court opined that "a clever defendant with sufficient resources could figure out a way to leave the country without travel documents." [Ex. 9—SEC Order at 6]. In short, Mr. Kwok is a flight risk simply because he is believed to have the resources to flee.

This is the precise circumstance in which this Circuit has endorsed the use of home detention with private security. *See Boustani*, 932 F.3d at 82 (holding that home confinement with private security is appropriate where the defendant's wealth *is the reason* the defendant is deemed a flight risk). Pre-trial detention is

intended to serve a regulatory purpose, not a punitive one. *See, e.g., United States v. Millan*, 4 F.3d 1038, 1043 (2d Cir. 1993). Courts in this Circuit have released defendants on bail subject to home confinement with private security monitoring in other cases—there is no reason it can't also be done here.

vii. *Restrictions on Technology and Communications*

During the Bail Hearing, Mr. Kwok's counsel explained that Mr. Kwok's conditions of release can be structured to deal with any concern the Government or the District Court may have about Mr. Kwok contacting victims, setting up new businesses, or perpetrating additional frauds. [Ex. 3—4/4/23 Bail Hearing Trans. at 31:15-32:03.] Counsel noted that the U.S. Attorney's Office frequently works with defendants to negotiate bail conditions sufficient to alleviate the Government's reasonable concerns, while also preserving the liberty of the defendant awaiting trial. [*Id.*] Up to this point, however, the Government has been unwilling to even have a conversation with Mr. Kwok's counsel about potential conditions of release. [Ex. 3—4/4/23 Bail Hearing Trans. at 31:25-32:3]. As both the Government and the District Court know, this is atypical. [*See* Ex. 3—4/4/23 Bail Hearing Trans. at 7:6-7 ("As this Court knows, pretrial services doesn't often recommend detention in a fraud case.").] The Government *routinely* negotiates bail conditions—even in cases alleging massive fraud, featuring wealthy defendants, and presenting ongoing concerns about the safety of the community—as demonstrated by that office's

recent handling of Sam Bankman-Fried's conditions of pre-trial release. [Ex. 3—4/4/23 Bail Hearing Trans. at 31:17-32:03].

In December 2022, Samuel Bankman-Fried, charged with a multi-billion-dollar securities fraud, was released on a $250 million bond and subject to home detention with location monitoring technology and various other financial and physical conditions. [*See* Exhibit 12, *U.S. v. Bankman-Fried*, Appearance Bond, filed Dec. 22, 2022, Case No. 22-00673 (S.D.N.Y. 2022), ECF No. 14.]

While bail was initially agreed to between the Government and defense counsel, issues later arose regarding the sufficiency of those conditions for Mr. Bankman-Fried, particularly with respect to his use of the internet, messaging applications, and a Virtual Private Network ("VPN"). The Government argued that this conduct raised potential concerns, such as hiding online activities, covertly accessing cryptocurrency exchanges, and transferring data without detection. [*See* Exhibit 12, *U.S. v. Bankman-Fried*, Supplement to Government's Motion Regarding Conditions of Release, filed Feb. 13, 2023, Case No. 22-00673 (S.D.N.Y. 2022), ECF No. 66.] But the court did not revoke Mr. Bankman-Fried's bail; instead, it imposed additional conditions to address these concerns and permitted the parties to work together to devise further ameliorative conditions. [*Compare* Minute Entry in Connection with Arraignment dated Jan. 3, 2023, *U.S. v. Bankman-Fried,* 22-cr-673 (S.D.N.Y. 2022), (ordering that defendant remain on

bail and imposing restriction prohibiting him "from accessing or transferring any FTX or Alameda assets or cryptocurrency, including assets or cryptocurrency purchased with funds from FTX or Alameda"); *with* Exhibit 13, *U.S. v. Bankman-Fried*, Order entered Feb. 14, 2023, Case No. 22-00673 (S.D.N.Y. 2022), ECF No. 68 (imposing additional condition prohibiting the defendant's use of a VPN).] Recognizing Mr. Bankman-Fried's need to use a computer and VPN to prepare his defense, the Government agreed to an additional bail condition that permitted Mr. Bankman-Fried access to a laptop under the control and supervision of his attorneys, restricted to the approved programs and applications necessary for Mr. Bankman-Fried to assist in his defense. [Exhibit 14, *U.S. v. Bankman-Fried*, Order entered Mar. 28, 2023, Case No. 22-00673 (S.D.N.Y. 2022), ECF No. 116.]

In Mr. Bankman-Fried's case the Government and the court implicitly recognized the critical importance of preserving the defendant's ability to assist in preparing his defense. The Government was willing to work with the defendant's counsel to arrive at a creative solution, using technology to limit the defendant's communications with the outside world to *no more and no less* than he needed to prepare his defense. Mr. Kwok's needs are no less important. Moreover, unlike Mr. Bankman-Fried, the language barrier between Mr. Kwok and his counsel and the Government's representation that it will soon produce *terabytes of data*—much of which will be in Mandarin—further restricts Mr. Kwok's ability to assist counsel

in preparing his defense while he remains incarcerated. The District Court's disparate treatment of Mr. Kwok, and its failure to fully evaluate whether there is *any combination of conditions* that will reasonably assure the safety of the community is reversible error. Moreover, the District Court's conclusory rejection of Mr. Kwok's argument that this combination of circumstances deprives him of his Sixth Amendment right to counsel must be reversed.

Assuming *arguendo* that these contentions rise to the level of a "serious risk" that Mr. Kwok "will obstruct or attempt to obstruct justice," 18 U.S.C. § 3142(f)(2), it is unclear how the Government believes Mr. Kwok's *detention* will ameliorate these purported risks. Pre-trial incarceration would not greatly restrict Mr. Kwok's ability to file legal actions or to have content posted on social media. While the Government has stated unequivocally that it believes Mr. Kwok's proposed bail conditions to be inadequate, it also contends that Mr. Kwok "operates through agents," and "issues directives to his co-conspirators and followers, who then act on his wishes." [Ex. 7—Opposition to Bail Memorandum at 15]. And, in any case, Mr. Kwok has already agreed to restrictions on his ability to communicate while on home detention.

The Government's speculation that Mr. Kwok will engage in future obstructive conduct is just that—speculation. In the event Mr. Kwok is released on bail and is subsequently believed to engage in acts of obstruction, the Government

will have the opportunity to seek his detention. From home confinement, Mr. Kwok would have every incentive to avoid that outcome.

CONCLUSION

The District Court committed clear error: (1) in finding that the Government established by a preponderance of the evidence that Mr. Kwok poses a serious risk of flight; (2) in finding that the Government established by clear and convincing evidence that Mr. Kwok poses a serious danger to the community; (3) in failing to adequately explain on the record the extent to which it considered alternatives to Mr. Kwok's pre-trial detention, and, if applicable, on what basis they were rejected; and (4) in concluding that no condition or set of conditions would ensure Mr. Kwok's return to court or the safety of the community. This Court must reverse and remand.

Respectfully submitted,

/s/ Stephen R. Cook

Stephen R. Cook
BROWN RUDNICK LLP
2211 Michelson Drive
Irvine, CA 92612
(949) 752-7100

William R. Baldiga
BROWN RUDNICK LLP
Seven Times Square
New York, NY 10036
(212) 209-4800

Counsel for Defendant-Appellant Ho Wan Kwok

Dated: May 5, 2023

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS AND TYPE STYLE REQUIREMENTS

1. This Motion contains 8,730 words according to the word count feature of Microsoft Word. Concurrently filed with this Motion is a Motion for Leave to File an Oversized Motion.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. R. 32(a)(6) because this brief has been prepared in a proportionately spaced typeface using Microsoft Word in Times New Roman 14-point type.

/s/ Stephen R. Cook
Stephen R. Cook

Dated: May 5, 2023

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of this Brief for Defendant-Appellant were served electronically on the parties at the addresses listed below on this 5th day of May, 2023.

/s/ Stephen R. Cook
Stephen R. Cook

Juliana N. Murray
Micah F. Fergenson
Ryan B. Finkel
U.S. Department of Justice
Criminal Division, SDNY
The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007
juliana.murray@usdoj.gov
micah.fergenson@usdoj.gov
Ryan.Finkel@usdoj.gov

United States Court of Appeals
for the
Second Circuit

No. 23-6421

UNITED STATES OF AMERICA,

Appellee,

– v. –

HO WAN KWOK, *et al.*,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

EXHIBITS FOR MOTION FOR RELIEF FROM ORDER DENYING PRE-TRIAL RELEASE

EXHIBIT	CONTENTS
1	Ho Wan Kwok's Memorandum in Support of Application for Release on Bail Pending Trial filed March 31, 2023, ECF No. 24.[1]
2	Ho Wan Kwok's Supplement to Application for Release on Bail Pending Trial filed April 19, 2023, ECF No. 50.
3	Transcript of Bail Proceedings held as to Ho Wan Kwok on April 4, 2023.
4	Transcript of Arraignment held as to Ho Wan Kwok on March 15, 2023.
5	Superseding Indictment, ECF No. 19.
6	Government's March 15, 2023 Letter Brief re: Detention ECF No. 7.
7	Government's Opposition to Ho Wan Kwok's Memorandum in Support of Pretrial Release, filed April 3, 2023, ECF No. 26.
8	Order Denying Pretrial Release entered April 20, 2023, ECF No. 51.
9	Securities and Exchange Commission Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-And-Desist Order dated Sept. 13, 2021.
10	Complaint and Affidavit in support of Application for an Arrest Warrant, *United States v. Jin*, Case No. 20-MJ-1103 (E.D.N.Y.).
11	Complaint and Affidavit in support of Application for an Arrest Warrant, *United States v. Yunpeng*, Case No. 23-MJ-0334 (E.D.N.Y. Apr. 6, 2023).
12	*U.S. v. Bankman-Fried*, Supplement to Government's Motion

[1] Unless otherwise noted, all citations to the docket are to *U.S. v. Kwok*, Case No. 23-cr-118-1 (AT) pending in the United States District Court for the Southern District of New York.

	Regarding Conditions of Release, filed Feb. 13, 2023, Case No. 22-00673 (S.D.N.Y. 2022), ECF No. 66.
13	*U.S. v. Bankman-Fried*, Order entered Feb. 14, 2023, Case No. 22-00673 (S.D.N.Y. 2022), ECF No. 68.
14	*U.S. v. Bankman-Fried*, Order entered Mar. 28, 2023, Case No. 22-00673 (S.D.N.Y. 2022), ECF No. 116.
15	Notice of Appeal, dated May 4, 2023

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA **v.** **HO WAN KWOK, *et al.*,** Defendants.	**CRIMINAL NO. 23-CR-118 (AT)**

HO WAN KWOK'S MEMORANDUM IN SUPPORT OF APPLICATION FOR RELEASE ON BAIL PENDING TRIAL

I. PRELIMINARY STATEMENT

The Eighth Amendment to the U.S. Constitution guarantees reasonable bail. As the Supreme Court has recognized, "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). Even when defendants have been accused of the most notorious and massive frauds in our nation's history, liberty remains the norm:

- *Sam Bankman-Fried (FTX)*: Reported fraud losses of over $8 billion, released on a $250 million personal recognizance bond;[1]
- *Bernard Madoff (Bernard L. Madoff Investment Securities LLC)*: Reported fraud losses of over $50 billion, released on a $10 million personal recognizance bond;[2]

[1] *See* Appearance Bond at 1, *United States v. Bankman-Fried*, No. 1:22-cr-00673-LAK (S.D.N.Y. Dec. 22, 2022), ECF No. 14.
[2] *See* Minute Entry, *United States v. Madoff*, No. 1:09-cr-00213-DC-1 (S.D.N.Y. Dec. 11, 2008).

- *Elizabeth Holmes (Theranos)*: Estimated $700 million in investor losses, released on a $500,000 (initially unsecured) bond;[3]
- *Jeffrey Skilling (Enron)*: Estimated losses of $60 billion, released on $5 million secured bond;[4]
- *Bernard Ebbers (WorldCom)*: Reported fraud losses of $11 billion, released on $10 million personal recognizance bond;[5]
- *Jordan Belfort (Stratton Oakmont)*: Reported fraud losses of $200 million, released on $10 million unsecured bond.[6]

Despite the notoriety of these cases, the number of victims, the massive dollar amounts, and the individual resources of each defendant, courts were nevertheless able to avoid detention and set conditions of release that allowed the defendants to be released and to participate meaningfully in their own defenses. This case should be no different.

The Sixth Amendment to the U.S. Constitution guarantees Mr. Kwok the right to counsel. Mr. Kwok's continued detention will impact severely his ability to meaningfully participate in his own defense, and it will cripple his counsel's ability to investigate the Government's allegations and prepare for trial. The Government has informed the undersigned that the volume of discovery in this case is voluminous, including an *initial* production of approximately two terabytes of data. Much of that data is expected to be in Mandarin.

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[3] *See* Order Setting Conditions of Release, *United States v. Holmes et al*, No. 5:18-cr-00258-EJD-1 (N.D. Cal. June 15, 2018), ECF No. 6.
[4] *See* Appearance Secured Bond, *United States v. Causey et al.*, No. 4:04-cr-00025-2 (S.D. Tex. Feb. 19, 2004), ECF No. 34.
[5] *See* Minute Entry, *United States v. Sullivan, et al.*, No. 1:02-cr-01144-VEC-3 (S.D.N.Y. Mar. 3, 2004).
[6] *See* Order Setting Conditions of Release and Bond, *United States v. Belfort, et al.*, No. 1:98-cr-00859-AMD-1 (E.D.N.Y. Sept. 4, 1998), ECF No. 5.

Currently detained at Metropolitan Detention Center, Brooklyn ("MDC Brooklyn"), Mr. Kwok has limited access to his attorneys, and he is currently subject to unusually draconian restrictions in an extraordinarily dangerous environment. On March 24, 2023, the Warden of MDC Brooklyn placed the facility on an indefinite lockdown, citing an increase in contraband, including weapons.[7] Inmates are reportedly allowed out of their cells for a total of twenty minutes per day, with only one cell permitted to be out at any given time. Access to phone, internet, and all other services have been restricted, if not entirely revoked; inmates are served only one hot meal a day, and all meals are eaten in cells. And while the Warden's memorandum states that "every attempt will be made to ensure the inmate population is provided . . . legal phone calls and visits," Mr. Kwok's counsel have had significant challenges communicating with their client. Moreover, even when walk-in visits by attorneys are permitted at MDC Brooklyn there are a limited number of visitation rooms available, often requiring attorney-client privileged conversations be attempted in a large open room filled with other inmates and BOP staff. It is also not feasible—or allowed—for Mr. Kwok's legal team to transport the extensive documentation that must be reviewed, analyzed and discussed with Mr. Kwok over many months while seated at a small table designed for two persons located in an open room filled with other inmates. This constellation of circumstances is plainly inadequate for a case of this complexity, and leaves Mr. Kwok with no meaningful opportunity to participate in and assist his defense, effectively depriving him of his right to counsel.

[7] See *Memorandum for Inmate Population*, by S. Ma'at, Warden, MDC Brooklyn (Mar. 24, 2023) ("[T]his memorandum is declaring my decision to implement a planned lock-down on various floors and units to slow operations down, conduct shakedowns, and gather additional intelligence."), attached hereto as Ex. A.

Mr. Kwok respectfully submits that the bail proposal contained herein is sufficient to satisfy any legitimate concerns the Government may have and to ensure Mr. Kwok's appearance in court, and will allow Mr. Kwok to have meaningful access to his counsel.

II. LEGAL STANDARD

The Bail Reform Act codifies the Eighth Amendment's guarantee of bail, requiring district courts to order the pre-trial release of the defendant "unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community." *United States v. Boustani*, 932 F.3d 79, 81 (2d Cir. 2019) (quoting 18 U.S.C. § 3142(b)); *United States v. Sabhnani*, 493 F.3d 63, 75 (2d Cir. 2007).

However, even in circumstances where a court determines that a defendant poses a flight risk or a risk to the community, there remains a statutory presumption in favor of the defendant's release. *See Sabhnani*, 493 F.3d at 75 ("[I]t is only a limited group of offenders who should be denied bail pending trial.") (internal quotation marks and citations omitted). Accordingly, the presiding court must release the defendant on bail, subject to the *least restrictive* conditions that will reasonably assure the defendant's appearance at trial and the safety of the community. *See Boustani*, 932 F.3d at 81; *Sabhnani*, 493 F.3d at 75; *see also United States v. Madoff*, 586 F. Supp. 2d 240, 246 (S.D.N.Y. 2009).

The Court's analysis is therefore twofold. First, the Court must determine whether the Government has met its burden and established by a preponderance of the evidence that the defendant "presents a risk of flight or obstruction of justice." *Madoff*, 586 F. Supp. 2d at 247. If the Court finds that the Government has met this initial burden, the Court must then evaluate whether there are reasonable conditions of release that can ameliorate the risk. *See id.*

In determining whether there are conditions of release that will reasonably assure the appearance of the defendant and the safety of the community, courts evaluate four factors: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant; and (4) the nature and seriousness of the danger to the community posed by the defendant. *See* 18 U.S.C. § 3142(g); *Boustani*, 932 F.3d at 81. "An order of detention based on the safety of other persons and the community must rest on a finding supported by clear and convincing evidence," *United States v. Stein*, No. S1 05 Crim. 0888 (LAK), 2005 WL 8157371, at *1 (S.D.N.Y. Nov. 14, 2005), while detention based on the defendant's perceived flight risk must be supported by a preponderance of the evidence. *See Boustani*, 932 F.3d at 81; *Sabhnani*, 493 F.3d at 75.

III. BACKGROUND OF HO WAN KWOK

Mr. Kwok was born into a poor family in Shandong Province, China. In his youth, Mr. Kwok worked in a radio repair shop and combined his earnings with those of his seven brothers to invest in real estate development. In his early twenties, following the pro-democracy Tiananmen Square protests in 1989, Mr. Kwok spent approximately 20 months in jail—where he was tortured—for providing financial support to student protestors. Around the same time, he witnessed his younger brother brutally shot and left to die by two agents of the Chinese Communist Party ("CCP"). The murder of Mr. Kwok's brother and his arrest and subsequent torture in prison affected him profoundly. While in jail, Mr. Kwok developed many meaningful personal connections with other prisoners of conscience who also had been jailed for supporting the Tiananmen Square pro-democracy movement. They shared the same passion for pursuing freedom in China, and Mr. Kwok continued to maintain those relationships after his release from prison in 1991.

By around 1991, the Chinese government was beginning to loosen certain rules governing society, which enabled private citizens to start to achieve a sort of "quasi-private" ownership of real property in China. While Mr. Kwok's family benefitted from this change, he personally could not, due to his prior politically-motivated arrest and detention. Mr. Kwok left mainland China for Hong Kong in or around 2000, and became a Hong Kong citizen. While his family was continuing to build its businesses in China, under Chinese law, as a citizen of Hong Kong, Mr. Kwok could neither keep his Chinese citizenship, nor own assets in China.

Mr. Kwok's family was active in commercial real estate development, and in 2002 the family acquired large tracts of land in Beijing, which became significantly more valuable when China was named the host country for the 2008 Olympics. CCP officials attempted to appropriate this land for their own personal benefit, and Mr. Kwok reported the attempted seizure to higher-up Chinese government officials. After a lengthy fight the land was recovered, enabling the development of Pangu Plaza—a hotel, convention center, and residential apartment complex in Beijing that eventually served as the backdrop to the 2008 and 2022 Olympics in Beijing.

Mr. Kwok continued to provoke the ire of the CCP by speaking out against corruption. In 2003, Mr. Kwok exposed the corruption of a prominent CCP official in Beijing. Members of the Ministry of State Security requested and received Mr. Kwok's cooperation in their investigation of this official, who was ultimately tried and convicted of bribery. Thereafter, that official and his political faction sought revenge against Mr. Kwok, using their political power to persecute Mr. Kwok and his family.

In the years after denouncing the Beijing official, Mr. Kwok and his family were under continuous threat. Fearing for their safety, Mr. Kwok moved his family to Hong Kong, hoping

to avoid further conflict with the CCP. However, in October 2014, Mr. Kwok developed a friendship with a Deputy Minister of State Security. Although the Deputy Minister provided some protection against the Beijing official, the Beijing official's attacks against Mr. Kwok and his family persisted, inflicting reputational damage. Amid this pressure and fearing for their safety, Mr. Kwok moved his family to Hong Kong, hoping to avoid further conflict with the CCP. In October 2014, the Deputy Minister alerted Mr. Kwok that he was wanted by the Chinese government on pretextual charges. On January 1, 2015, Mr. Kwok fled from Hong Kong to the United States, where he ultimately sought political asylum. He has not returned to China since.

Ten days after Mr. Kwok departed Hong Kong, his daughter, wife, brothers, and several hundred employees were arrested during a Chinese government raid at the Pangu Hotel in Beijing. Over one hundred police agents descended on the hotel and began beating and arresting everyone present. Mr. Kwok's family were recognized and immediately taken into custody. Mr. Kwok's daughter and wife were detained and separately questioned repeatedly about Mr. Kwok, his whereabouts, and allegations that he was serving as a spy for the United States. They were told that they would be detained until they convinced Mr. Kwok to return to China, but were ultimately released. Mr. Kwok's brothers were not so fortunate—several were convicted of false charges and sentenced to months and years of detention.

Mr. Kwok's wife and daughter remained subject to constant surveillance by the Chinese government and were expressly prohibited from traveling anywhere in or outside of China unless given authority by security agents. They were followed wherever they went and were required each day to report telephonically to the security agents who had interrogated them, revealing everywhere they went, and everyone with whom they had met. They were not permitted to

return to their home for a year. When they were permitted to return in February 2016, they found that most of their friends had distanced themselves from the family in fear of reprisals and interrogation by the Chinese government.

Mr. Kwok's daughter was taken into custody a second time in December 2016, this time detained for approximately 40 days and subjected to more aggressive questioning and abhorrent conditions. Mr. Kwok's wife was not detained, but was required on numerous occasions to report to Beijing for interrogation. Throughout this, the security agents remained intent on securing Mr. Kwok's return to China, using his family as leverage. Mr. Kwok, then in New York, received calls on behalf of senior members of the CCP, informing him that his family would be released if he stopped publicly exposing CCP corruption. Later they would try to convince him to return to China by assuring him that his position in society would be restored and his family's assets unfrozen. In May 2017, the Chinese government permitted Mr. Kwok's wife and daughter to temporarily visit Mr. Kwok in New York on the condition that they persuade Mr. Kwok to agree to return, with his family, to China.

A week after Mr. Kwok's family arrived, four Chinese security officials traveled to New York on transit visas, which do not permit the holder to conduct business while in the United States. The CCP agents demanded a meeting with Mr. Kwok. They spent many hours in his apartment, trying to persuade him to return to China, offering him assurances that if he curtailed his criticism of the CCP he would be restored to good standing in China. This visit caught the attention of the FBI, who interviewed Mr. Kwok about his visit from the Chinese officials. Mr. Kwok notified the FBI agents that the Chinese security officials were planning to return to his home in two days, allowing the FBI the opportunity to detain and question them about their activities in the United States.

In 2017, Mr. Kwok significantly increased his anti-CCP campaign by using social media and U.S.-based news outlets as platforms to expose the corruption of certain high-level CCP officials. Mr. Kwok's public statements received widespread coverage in the United States and abroad, and Mr. Kwok provided information to U.S. authorities regarding CCP officials and their crimes. Retaliation on the part of the CCP increased, as they attempted to gain leverage over, discredit, threaten, and silence Mr. Kwok. Fearing for his life, Mr. Kwok filed for political asylum protection in the United States in September 2017. His asylum application remains pending.

When these efforts to silence Mr. Kwok failed, the CCP resorted to trying to get him extradited to China, where he would almost certainly be executed. The events that followed, and that continue to unfold today, are truly extraordinary. An FBI investigation revealed that during the summer of 2017, Mr. Kwok was the target of lobbying attempts by the CCP in the United States, utilizing a corrupt Department of Justice official and a number of prominent U.S. businesspersons to lobby the President of the United States and his administration to extradite Mr. Kwok to China.[8] The CCP's scheme resulted in the federal indictments and guilty pleas of the former Finance Chairman of the Republican National Committee Elliot Broidy,[9] lobbyist

[8] *See* Aruna Viswanatha, *Steve Wynn May Face Just. Dep't Action for Role in China's Push to Expel Businessman,* Wall Street Journal (May 26, 2021), https://www.wsj.com/articles/justice-department-wants-casinomogul-steve-wynn-to-register-as-foreign-lobbyist-11622054103).

[9] U.S. Dep't of Just., *Elliott Broidy Pleads Guilty for Back-Channel Lobbying Campaign to Drop 1MDB Investigation and Remove a Chinese Foreign Nat'l* (Oct. 20, 2020), (https://www.justice.gov/opa/pr/elliott-broidy-pleads-guilty-back-channel-lobbying-campaign-drop-1mdbinvestigation-and) (stating that "Broidy also agreed to lobby the Administration and DOJ on behalf of Foreign National A and People's Republic of China (PRC) Minister A, to arrange for the removal and return of PRC National A – a dissident of the PRC living in the United States"; Mr. Kowk is "PRC National A").

Nicki Lum Davis,[10] and former DOJ official George Higgenbotham,[11] all of whom admittedly took payments in exchange for lobbying top U.S. government officials for Mr. Kwok's extradition. Prakazrel Michel, best known as part of the 90s hip-hop group the Fugees, is currently standing trial in the United States District Court for the District of Columbia for his role in the scheme.[12] Senior DOJ official Higginbotham, for his part, facilitated the transfer of tens of millions of dollars, making it one of the biggest espionage and corruption scandals in DOJ history.[13]

The CCP has also targeted Mr. Kwok in various other ways starting that same year, including by: orchestrating false criminal charges against him that have led to the issuance of INTERPOL Red Notices; hacking the server of the law firm that filed his asylum application, extracting his highly sensitive information from that application, and then publicly disseminating it across the internet; bringing and funding numerous spurious litigations against him, some of

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[10] U.S. Dep't of Just., *Hawaii Businesswoman Pleads Guilty to Facilitating Back-Channel Lobbying Campaign to Drop 1MDB Investigation and Remove a Foreign Nat'l to China* (Aug. 31, 2020), https://www.justice.gov/opa/pr/hawaii-businesswoman-pleads-guilty-facilitating-back-channel-lobbyingcampaign-drop-1mdb (stating that "Lum Davis and others also agreed to lobby the Administration and Justice Department on behalf of Foreign National A and People's Republic of China (PRC) Minister A, to arrange for the removal and return of PRC National A — a dissident of the PRC living in the United States"; Mr. Kowk is "PRC National A").

[1111] U.S. Dep't of Just., *Former Just. Dep't Employee Pleads Guilty to Conspiracy to Deceive U.S. Banks about Millions of Dollars in Foreign Lobbying Funds* (Nov. 30, 2018), https://www.justice.gov/opa/pr/former-justice-department-employee-pleads-guilty-conspiracy-deceive-us-banks-about-millions (stating that "Higginbotham further admitted that another purpose of the lobbying campaign was an attempt to persuade high-level U.S. government officials to have a separate foreign national, who was residing in the United States on a temporary visa at the time, removed from the United States and sent back to his country of origin"; Mr. Kwok is that "separate foreign national").

[12] Robert Legare, *Rapper Pras Michel on trial in D.C., accused in multimillion-dollar int'l fraud scheme*, CNBC News (Mar. 30, 2023), https://www.cbsnews.com/news/pras-michel-rapper-trial-conspiracy-fraud/.

[13] Factual Basis for Plea, *United States v. Higginbotham*, No. 1:18-cr-00343 (D.D.C. Nov. 30, 2018).

which remain active today; and detaining, torturing, and imprisoning many of his family members and former colleagues. Since 2017, the CCP has frozen and seized family assets and purported assets in China and Hong Kong, making it impossible for Mr. Kwok to even maintain a bank account.

IV. PROPOSED CONDITIONS OF RELEASE

Mr. Kwok respectfully proposes the following conditions of release:

1. An appearance bond of $25 million, $5 million of which to be secured by cash deposited with the Court, real estate assets, or a combination of both. The appearance bond to be signed by Mr. Kwok and two financially responsible adults, one of whom is not a family member.

2. Mr. Kwok to surrender all travel documents (to the extent any exist).

3. Mr. Kwok's U.S.-based family—his wife and daughter—to surrender any travel documents that they possess.

4. Mr. Kwok to be subject to home detention at the Connecticut residence where his wife resides, or such other location approved by the Government or the Court.

5. Mr. Kwok to be subject to GPS or other active location monitoring technology as directed by pretrial services.

6. Mr. Kwok to be subject to 24/7 surveillance by a security company which shall maintain at least one licensed and qualified guard on-site at all times, reporting violations to the Government and/or the Court. The security company shall not have any prior affiliation with Mr. Kwok or his family.

7. Mr. Kwok shall not enter into any financial transactions without pre-approval of the Government or the Court, except to pay legal costs and fees.

9. Mr. Kwok to have no communications with co-defendants except in the presence of counsel.

V. ARGUMENT

The Court should grant Mr. Kwok's application for bail for several reasons. First, the Government has failed to meet its burden of showing that Mr. Kwok poses either a risk of flight, a danger to the community, or will obstruct justice. Indeed, the evidence demonstrates quite the opposite: Mr. Kwok likely would face a fate far worse than incarceration in the United States should he attempt to flee. Moreover, the facts in this case are far from those that would require this Court to depart from the presumption in favor of release—Mr. Kwok plainly does not qualify as one of the "*limited* group of offenders who should be denied bail pending trial." *United States v. Shakur*, 817 F.2d 189, 195 (2d Cir.1987) (quoting S. Rep. No. 98–225, at 7 (1984)) (emphasis added) (internal quotation marks omitted). Finally, should the Court determine that Mr. Kwok is a flight risk or poses some danger to the community, he should still not be detained, as there exists a combination of bail conditions adequate to address and eliminate these risks, and the Government has failed to make a showing to the contrary.

A. Mr. Kwok Does Not Pose a Risk of Flight

The Government asserts that Mr. Kwok "presents a substantial risk of flight and should be detained for this reason alone." Letter Motion re: Detention Memorandum (Mar. 15, 2023) ("Gov't Detention Mem.") at 21 (ECF No. 7). In fact, the opposite is true—Mr. Kwok has every reason ***not*** to flee and will remain in the United States to defend himself against allegations in the Indictment.

1. Mr. Kwok's Life in the United States

The first (and most compelling) reason that Mr. Kwok is not a flight risk is that two of the most important people in his life—his wife of 38 years and his daughter live here in the United States. Mr. Kwok's wife and daughter reside primarily in Connecticut and, like Mr. Kwok, they have sought asylum in the United States after experiencing harassment, imprisonment, and persecution at the hands of the CCP. *See Section III, supra.* Neither Mr. Kwok's daughter nor his wife have passports that they could use to travel outside the United States.[14] Mr. Kwok has a very close relationship with his wife and daughter and would not abandon them here in the United States. Nor would he risk never seeing his wife and daughter again, which would likely be the result were he to flee the United States. In sum, Mr. Kwok would not jeopardize his relationships with two of his three closest family members by abandoning them for a life on the run outside the United States.

Relatedly, Mr. Kwok and his family have established a life in the United States and could not relocate without substantial hardship. In the first instance, it would be extremely difficult for Mr. Kwok to even logistically manage a way out of the country: his passports have been confiscated or otherwise previously relinquished, he has no access to a private plane or boat, his assets are unavailable to him, and there are INTERPOL red notices issued against him by China. Even if he wanted to flee the United States, Mr. Kwok would face intolerable risks to his life were he to expose himself to the long reach of the CCP outside the protection of this country. Indeed, as illustrated above, even while in the United States he has been subject to harassment by

[14] Mr. Kwok's daughter has one passport for Hong Kong, but for the reasons outlined *infra*, this is, in effect, a void passport because of the CCP and the threats to her liberty and safety that leaving the United States would present. As noted above, Mr. Kwok's daughter is willing to surrender her passport to the Court in order to provide additional assurance to the Court that her father is not a flight risk.

the CCP and its agents. It is simply not reasonable to assume Mr. Kwok to be a flight risk in light of the extreme and well documented dangers that would accompany a decision to run.

2. Mr. Kwok has Not Left the Country Since 2017

Since immigrating to the United States in 2015, Mr. Kwok has, at a maximum, traveled abroad on only three occasions, all in 2017 or earlier. ***Mr. Kwok has not left the United States since applying for political asylum over five years ago, in September 2017***.

In support of its argument that he is a flight risk, the Government relies on three trips Mr. Kwok allegedly took between March and August 2017. *See* Gov't Detention Mem. at 1-2 ("Between March 2017 and August 2017, Kwok traveled internationally on three occasions"). As an initial matter, these three trips back in 2017 can hardly be considered evidence that the defendant is likely to flee the country. Rather, the absence of *any* international travel since he filed his asylum application five years ago evidences Mr. Kwok's real and substantial security concerns about the threat posed by the CCP were he to travel abroad. The Government also appears to rely on Mr. Kwok's pre-asylum travel over a decade ago as evidence that Mr. Kwok is a flight risk. This assertion is meritless. This travel, as the Government duly acknowledges, was *into* the United States. Mr. Kwok's desire to travel to the United States for business and personal reasons and, ultimately, to seek asylum, is evidence of his desire and intent to stay, rather than flee.

The Government also points to Mr. Kwok's business relationships abroad, such as in the United Arab Emirates ("UAE"), as evidence that he will flee if released on bail. To support this, the Government asserts, without support, that Mr. Kwok is "moving a portion of his criminal operations" to the UAE. *See* Gov't Detention Mem. at 9. Even if that were true—and, again, the Government has offered nothing in support—that is not evidence that Mr. Kwok would or could

flee to the UAE. And, moreover, even if this were a legitimate concern, the proposed conditions of release, including restrictions on his communications and round-the-clock physical surveillance, make this issue moot.

The Government also argues that Mr. Kwok is a flight risk because, if convicted, he would lose his eligibility for asylum. *See* Gov't Detention Mem. at 21. The Government's argument presumes that Mr. Kwok's asylum claim is the only grounds upon which he may avoid eventual deportation if he were convicted. Not so. Even if Mr. Kwok is convicted of all the crimes charged, he would still be eligible for protection from deportation to China under the Convention Against Torture ("CAT"). Given his anti-CCP dissident profile and the CCP's past actions against him, including being arrested and tortured while in China, he will likely qualify for CAT protection and be permitted to remain in the United States. Again, the primary bases for the Government's flight risk concerns are, in fact, the very reasons why Mr. Kwok is unlikely to flee.

B. Mr. Kwok Does Not Pose a Danger to the Community

There also can be no serious argument that Mr. Kwok presents a danger to the community, much less a danger so pervasive that no set of conditions could reasonably assure the community's safety, as the Government argues. The Government appears to focus its concern upon purported "economic danger." Gov't Detention Mem. at 18 (emphasis added). There is scant support in case law for the proposition that a defendant can be denied bail due to the risk the defendant *might* cause financial or economic harm.[15] While there is

[15] *See, e.g.*, *Madoff*, 586 F.Supp.2d at 251-54 (noting defendants' observation that the Government's argument regarding economic harm was "conspicuously lacking in references to Second Circuit authority," and concluding that while there is limited jurisprudence from other jurisdictions recognizing economic harm in the context of detention, "the scope of the factor remains uncertain").

"jurisprudence to support the consideration of economic harm in the context of detention to protect the safety of the community . . . [,] the scope of this factor remains uncertain[.]" *Madoff*, 586 F. Supp. 2d at 253 n.14; *see also United States v. Gulkarov*, 22 Cr. 20 (PGG), 2022 WL 205252, at *3 (S.D.N.Y. Jan. 24, 2022) ("Potential 'danger to any person or the community' includes the risk that a defendant might cause financial or 'economic harm' if granted pretrial release.") (quoting *Madoff*, 586 F. Supp.2d. at 252). Moreover, in the handful of instances where courts have acknowledged economic harm absent the defendant being charged with one of the enumerated felonies set forth in 18 U.S.C. § 3142(e)(3), the ultimate detention order was premised on the defendant's risk of flight, and not the risk that the defendant would perpetrate a pecuniary or economic harm that requires detention. *See Madoff*, 586 F.Supp.2d at 254; *see also United States v. Persaud*, No. 05-cr-368, 2007 WL 1074906, at *1-3 (N.D.N.Y. Apr. 5, 2007) (agreeing that economic harm qualifies as a danger for purposes of the Bail Reform Act, but ultimately granting the defendant pre-trial release); *accord United States v. Gentry*, 455 F.Supp.2d 1018, 1032 (D. Ariz. 2006).

The substance of the Government's argument for Mr. Kwok's detention on the basis of economic danger is merely this: the Government alleges that Mr. Kwok has committed fraud in the past, and because of that it believes he is likely to do so again. This same argument was rejected by the Court in *United States v. Stein*, No. S1 05 Crim. 0888 (LAK), 2005 WL 8157371 (S.D.N.Y. Nov. 4, 2005). In *Stein*, the Government sought detention based, in part, on the grounds that the defendant was a danger to the community. *See* 2005 WL 8157371, at *1. In support of its position, the Government proffered that the defendant, after becoming aware of the investigation, engaged in witness tampering and obstruction. Even assuming *arguendo* that these allegations were true, the Court reasoned that the defendant's release pending trial could still be

"conditioned in a manner that would probably eliminate, and in any case greatly diminish, the risk of witness tampering or obstruction." *Id.* at *2. The Court should likewise reach the same conclusion here. The proposed conditions of release, including severe restrictions on his ability to engage in any financial transactions, are more than sufficient to address this concern.

C. Mr. Kwok Does Not Pose a Risk of Obstruction

While courts have recognized that "obstruction poses a danger to the community," *Stein*, 2005 WL 8157371, at *2, it has rarely formed the articulated basis for ordering pre-trial detention, absent evidence of flight risk. Any risk must be forward-looking—"the question is not simply whether [the defendant's] actions can be considered obstruction, but whether there is a *serious* risk of obstruction in the future." *Madoff*, 586 F.Supp.2d at 250. In *Madoff*, the court assessed the extent to which the defendant's *continued* release subject to bail conditions posed a serious risk of future obstruction, on a motion by the Government to detain the defendant for violating a preliminary injunction barring the dissipation of assets. *See id.* at 249-50. *Even after* being presented with the Government's evidence of alleged past acts of obstruction by the defendant while out on bail, the court concluded that "substantial questions remain[ed]" whether the Government had met its burden of showing that the defendant posed a "serious risk" of obstruction of justice *in the future*. *See id.* at 250. Ultimately, the *Madoff* court found it unnecessary to determine whether the Government met its burden of showing that the defendant posed a serious risk of obstruction of justice, explaining that even if there was potential for obstruction in the future, the Government had not shown that there were no conditions of release that would adequately mitigate the risk, and the defendant was once again released on bail. *See id.* at 249. Similarly, the court in *Stein* did not premise its detention decision on the risk the defendant would engage in witness tampering or obstruction, reasoning that it was "not

persuaded by clear and convincing evidence that a release of [the defendant] pending trial could not be conditioned in a manner that would probably eliminate, and in any case greatly diminish, the risk[.]" *Stein*, 2005 WL 8157371, at *2.

Here too, the bail package proposed by Mr. Kwok would virtually eliminate any risk of obstruction of justice. In its Detention Memorandum, the Government offers only a prediction that if released, Mr. Kwok is likely to "continue" to funnel assets and evidence. In support of this, the Government points to: (1) protests allegedly fomented by Mr. Kwok; (2) vague allegations of threats and intimidation by Mr. Kwok; (3) a bank transfer allegedly made by Mr. Kwok's co-defendant Mr. Je; and (4) the number of electronic devices recovered by the FBI in an unrelated search of Mr. Kwok's apartment nearly five years ago. Even if accepted as true, it is unclear how any of these things either relate to Mr. Kwok at all or would remain a concern if Mr. Kwok were released subject to the proposed bail conditions. For example, the Government points to social media posts made by an account that is controlled by an organization "associated with [Mr.] Kwok," and a video of an "individual associated with Mr. Kwok's entities" "cursing" attorneys representing entities adverse to Mr. Kwok, while protesting outside the office of Paul Hastings. *See* Gov't Detention Mem. at 13. This conduct does not constitute obstruction of justice, nor was it directed by or attributable to Mr. Kwok. In any case, the limitations that would be imposed upon Mr. Kwok's ability to engage in the communication and coordination necessary to perpetrate such acts would eliminate any risk of obstruction of justice.

D. <u>The Facts Do Not Support Detention Without Bail</u>

Even in circumstances where the Court determines that a defendant poses a flight risk or a risk to the community, the Bail Reform Act requires the Court to release the defendant "subject to the least restrictive further condition, or combination of conditions, that . . . will reasonably

assure the appearance of the person." *Boustani*, 932 F.3d at 81 (quoting 18 U.S.C. § 3142(c)(1)(B)); *see Sabhnani*, 493 F.3d at 75. In making this determination, courts analyze (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant; and (4) the nature and seriousness of the danger to the community posed by the defendant. *See* 18 U.S.C. § 3142(g); *see also Boustani*, 932 F.3d at 81.

1. <u>Similarly Situated Defendants in the Southern District of New York Have Been Released on Bail</u>

Mr. Kwok is charged only with non-violent, white-collar crimes. In its papers, the Government recites allegations of fraud, involving lies told to investors, and misappropriation of investors' capital to fund Mr. Kwok's "lavish lifestyle." *See* Gov't Detention Mem. at 17. In substance, the Government's case alleges no more than "garden-variety" securities fraud. Defendants facing similar charges in the Southern District of New York are routinely released on bail, even in cases involving charges of widespread and egregious fraudulent conduct:

- In December 2022, Samuel Bankman-Fried, charged with a multi-billion-dollar securities fraud, was released on a $250 million bond and subject to home detention with location monitoring technology and various other financial and physical conditions.[16]

- In April 2022, Sung Kook ("Bill") Hwang was released on bail pending trial on charges of racketeering and fraud in connection with a scheme to manipulate the prices of publicly traded securities. Mr. Hwang was released on a $100 million personal recognizance bond, with travel restrictions, but no private security monitoring.[17]

- In January 2022, Alexander Gulkarov, charged in a $100 million healthcare fraud case, was released on a $10 million bond, subject to travel restrictions, pretrial supervision, and restriction on contacts with co-defendants.[18]

[16] *See United States v. Bankman-Fried*, 22-cr-673 (S.D.N.Y. 2022).
[17] *See United States v. Hwang*, 22-cr-240 (S.D.N.Y. 2022).
[18] *See United States v. Gulkarov, et al.*, No. 22-cr-20 (S.D.N.Y. 2022).

- In October 2022, Ahmad Akbar, charged in a multi-million-dollar fraud scheme, was released on a $100,000 bond, subject to travel restrictions, drug testing, pretrial supervision, electronic monitoring with a curfew, and various other physical and financial conditions.[19]
- In 2017, William ("Billy") McFarland, charged with multiple acts of fraud related to the Fyre Festival scandal, was released subject to financial conditions, travel limitations, regular pretrial supervision, and urinalysis.[20]
- In 2016, Scott Tucker, charged in a $3.5 billion payday loan scheme, was released on $2 million bond, subject to travel restrictions.[21]

None of the above defendants were denied bail even though they face similar charges and share many of the same attributes that the Government asserts warrant Mr. Kwok's detention. One particularly illustrative example of these similarities is the case of defendant Sam Bankman-Fried (founder of the cryptocurrency exchange FTX), who was released on bail a few months ago, notwithstanding the multi-count indictment originally filed against him for: conspiracy to commit wire fraud, wire fraud, conspiracy to commit commodities fraud, conspiracy to commit securities fraud, conspiracy to commit money laundering, and conspiracy to defraud the Federal Election Commission and commit campaign finance violations.[22] *See generally* Indictment, *United States v. Bankman-Fried*, No. 22-cr-673 (S.D.N.Y. 2022), ECF No. 1. There, Judge Kaplan declined to detain Mr. Bankman-Fried, and instead released him subject to certain reasonable conditions. *See* Minute Entry (Dec. 22, 2022), ECF No. 13. These risk-ameliorating measures included a $250,000,000 personal recognizance bond; a prohibition against opening new lines of credit, businesses, and conducting certain financial transactions; the surrender of all travel documents;

[19] *See United States v. Akbar, et al.*, No. 20-cr-563 (S.D.N.Y. 2020).
[20] *See United States v. McFarland*, No. 17-cr-600 (S.D.N.Y. 2017).
[21] *See United States v. Tucker, et al.*, No. 16-cr-91 (S.D.N.Y. 2016).
[22] The Government filed a superseding indictment setting forth 12 counts against Mr. Bankman-Fried, including the additions of conspiracy to commit wire fraud and money laundering. *See generally* Superseding Indictment, *United States v. Bankman-Fried*, No. 22-cr-673 (S.D.N.Y. 2022), ECF. No. 80.

and home detention with electronic monitoring. *See* Appearance Bond at 5 (Dec. 22, 2022), ECF No. 14.

While bail was initially agreed to between the Government and defense counsel, issues later arose regarding the sufficiency of those conditions for Mr. Bankman-Fried, particularly with respect to his use of the internet, messaging applications, and a Virtual Private Network ("VPN"). The Government argued that this conduct raised potential concerns, such as hiding online activities, covertly accessing cryptocurrency exchanges, and transferring data without detection. *See* Letter by USA re: Bail Conditions at 1-2 (Feb. 13, 2023), ECF No. 66. But Judge Kaplan did not revoke Mr. Bankman-Fried's bail; instead, he imposed additional conditions to address these concerns and permitted the parties to work together to devise further ameliorative conditions. *See* Minute Entry (Jan. 3, 2023) (ordering that defendant remain on bail and imposing restriction prohibiting him "from accessing or transferring any FTX or Alameda assets or cryptocurrency, including assets or cryptocurrency purchased with funds from FTX or Alameda"); Order (Feb. 14, 2023), ECF No. 68 (imposing additional condition prohibiting the defendant's use of a VPN). The docket in Mr. Bankman-Fried's case presently reflects that the Government and defense counsel reached an agreement regarding additional bail conditions, and are in the process of finalizing the proposed order for the Court's approval. See Letter by USA re: Status Report re Proposed Bail Modifications (Mar. 24, 2023), ECF No. 111. Mr. Bankman-Fried continues to remain out on bail while awaiting trial.

Many similarities exist between these two defendants that illustrate that similar outcomes should be reached regarding their requests for pretrial release. Like Mr. Bankman-Fried, Mr. Kwok is also charged in a multi-count indictment with crimes such as conspiracy to commit wire fraud (Count I), wire fraud (Count II), and money-laundering-related crimes (Counts IX and

X). Moreover, both defendants are accused of perpetrating billion-dollar fraud conspiracies. Mr. Bankman-Fried and Mr. Kwok are also both sophisticated businessmen who are purported to have the means and opportunity to further perpetrate economic harm, and each of them have jobs that can be conducted remotely. Given these similarities (and others), and the bail decision reached in Mr. Bankman-Fried's case, Mr. Kwok should likewise be released on bail while he awaits the opportunity to defend himself at trial.

Moreover, in each of the above cases bail conditions were negotiated and agreed upon by the parties, agreed to by the Government, and not imposed by the Court. Here, despite Mr. Kwok's willingness to accept reasonable conditions on his release, the Government has refused to even entertain a discussion in the subject. Nevertheless, the nature and circumstances of Mr. Kwok's alleged crimes simply do not warrant his continued detention.

2. <u>Mr. Kwok's History and Characteristics Demonstrate that Detention is Unwarranted</u>

Mr. Kwok's personal characteristics and history also counsel against detention. As the Government acknowledges in its Detention Memorandum, Mr. Kwok emigrated from China to the United States in 2015 and applied for political asylum in 2017. *See* Gov't Detention Mem. at 1-2. As discussed in detail in Section IV.A *supra*, as a long-time and vocal critic of the CCP, Mr. Kwok experienced and continues to experience political persecution and credible threats against his life and the lives of his wife and children, threats that are far more likely to become realities should Mr. Kwok flee the United States.

Other facets of Mr. Kwok's personal characteristics also weigh in favor of release. While these characteristics are fully set forth in Section III, it bears repeating that, despite the Government's assertions to the contrary, Mr. Kwok does have roots in this country—two

immediate family members who would be unable to leave the United States without sacrificing their safety and asylum applications, his wife and his daughter.

E. Any Risks Posed by Mr. Kwok's Release Can Be Adequately Mitigated with the Conditions Proposed by Defense Counsel

1. Sufficient Bail Conditions Exist to Assure Mr. Kwok's Appearance

The Government must demonstrate by a preponderance of the evidence that there are no conditions that could be imposed on the defendant that would "reasonably assure" his presence in court. *See Sabhnani*, 493 F.3d at 75. This is simply not the case for Mr. Kwok. Even if the Court were to determine that he presents a flight risk, any such risk can be ameliorated through physical and financial conditions to his release. The Second Circuit has recognized circumstances in which a court may, as proposed here, release a defendant to home confinement subject to additional conditions, including the condition that the defendant pay for private armed security guards. *See Boustani*, 932 F.3d at 81; *Sabhnani*, 493 F.3d at 77.

There is ample precedent for this approach. For example, in *Sabhnani*, the Court determined that the defendants posed a risk of flight. *See* 493 F.3d at 64-65. The defendants were natives of Indonesia and India (respectively), and maintained extensive personal and business connections abroad, including in countries without extradition. *See id.* at 65-66. They had substantial financial resources which could be used to fund their flight, and their businesses could be operated from any location. *See id.* at 66-67. The court also noted concerns with defendants' financial disclosures, which failed to satisfactorily explain certain transactions, and reflected misrepresentations and omissions about the nature of their businesses and their finances. *See id.* at 72-73. Further, there was compelling evidence of the defendants' guilt on the grave charges of forced labor. Upon conviction, defendants faced terms of up to 40 years' imprisonment. *See id.* at 76-77. Nonetheless, the Second Circuit held that the flight risk

presented by the defendants in *Sahbnani could* be ameliorated with the imposition of both physical and financial restrictions. *See id.* at 77 (finding physical restrictions, including surrender of passports, home confinement with electronic monitoring, 24-hour-a-day visual surveillance of the home, and monitoring of phone and computer use by private security guards answerable to the court sufficient to mitigate flight risk).

Likewise, in *United States v. Weigand*, the court found that the defendant presented a flight risk that could be adequately mitigated with appropriate bail conditions. *See United States v. Weigand*, 492 F.Supp.3d 317, 319 (S.D.N.Y. 2020). The court assessed the defendant as a flight risk, citing the defendant's German nationality, the fact that Germany was unlikely to extradite him without his consent if he were to flee, and his substantial wealth. *See id.* The court also assessed the bail package proposed by the defendant, and ultimately concluded that because the proposed conditions would "reasonably assure" the defendant's presence at trial, the court was "statutorily obligated" to grant the defendant's motion for release. *Id.* at 318-19. Each of these cases demonstrate that, despite circumstances and concerns similar to those raised by the Government here, courts overwhelmingly favor pre-trial release for defendants—with conditions—*in lieu* of detention.

In *Boustani*, the Second Circuit addressed the result in *Sahbnani*, clarifying that the Bail Reform Act does not permit a "two-tiered bail system," allowing wealthy defendants to fund their own private prisons while similarly situated defendants of lesser means would be incarcerated. *See Boustani*, 932 F.3d at 82. The *Boustani* Court explained that the type of private security conditions endorsed in *Sahbnani* are appropriate where the defendant's wealth *is the reason* the defendant is deemed a flight risk. *See id.* ("a defendant may be released on such a condition only where, but for his wealth, he would not have been detained"). Conversely, the

Court explained, "if a similarly situated defendant of lesser means would be detained, a wealthy defendant cannot avoid detention by relying on his personal funds to pay for private detention." *Boustani*, 932 F.3d at 82 (holding that the District Court was not clearly erroneous in finding the defendant posed a flight risk).

Setting aside the wealth the Government ascribes to Mr. Kwok, there is no reasonable basis to consider him a flight risk. The Government points to Mr. Kwok's supposed ability to operate his businesses from nearly anywhere in the world as grounds for his detention. *See* Gov't Detention Mem. at 21. This argument was rejected by the *Sahbnani* court, which ordered the release of defendants subject to bail conditions, *despite* their wealth, *despite* their strong ties in their native countries, and *despite* their ability to recommence their business and personal lives elsewhere with little disruption. *See Sabhnani*, 493 F.3d 63, 66-67. Unlike the defendants in *Sabhnani, Mr. Kwok cannot return to his native country, and in fact cannot travel abroad at all.*

While Mr. Kwok arguably shares several other characteristics with the defendant in *Boustani*, he differs markedly with respect to international travel and in his ties to the United States. As explained above, Mr. Kwok and his family are political asylees residing in the United States, with no documents permitting them to travel internationally, who have been persistently targeted by the CCP. Mr. Kwok has not left the United States in over five years. That he would do so now is implausible. Moreover, Mr. Kwok has proposed physical and financial restrictions as conditions of his release that would effectively eliminate any flight risk that he may present. *See supra* Section IV. In addition to posting a substantial bond, Mr. Kwok would be under 24-hour monitoring by on-site security personnel answerable to the Court, he would be without travel documents, and he would be subject limitations on his communications, and he would be tracked 24/7 via active GPS monitoring.

2. The Proposed Bail Conditions Are Sufficient to Mitigate Any Alleged Danger

To detain Mr. Kwok on the basis of the alleged economic danger he presents to the community, the Government must present clear and convincing evidence demonstrating that there are no bail conditions that would reasonably ameliorate the risk. *See United States v. Madoff*, 586 F.Supp.2d 240, 246, 247 (S.D.N.Y. 2009). In *Madoff*, as previously mentioned, the Government moved to detain defendant Bernard Madoff—an infamous fraudster who was charged with "perhaps the largest Ponzi scheme ever"—after he had been released on bail. *Id.* at 246, 253. In support of its detention motion, the Government argued that Mr. Madoff presented a clear risk of economic harm, flight, and obstruction of justice. *See id.* at 245. The Government further argued that neither Mr. Madoff's then-current conditions of release, nor any other conditions, would be sufficient to ensure the safety of the community from the speculative economic harm the Government alleged. *See id.*

The Government's disputed motion for detention was later filed following the discovery that Mr. Madoff, *while already out on bail*, had been mailing packages to friends and family containing personal items valued at over $1 million. The Government asserted that "this type of economic harm represent[ed] a danger to the community as contemplated by § 3142 of the Bail Reform Act." *Id.* In essence, the Government articulated their theory of economic harm as "the dissipation of assets that will arguably become part of Madoff's restitution debt for victim recovery." *Id.* at 246. Ultimately, however, the court found that "[t]he Government . . . failed to meet the additional burden of proving by clear and convincing evidence that there [was] no condition or combination of conditions that [would] reasonably prevent [the threatened economic harm]." *Id.* at 254. It is worth noting that, there, the Government did not seek detention of Mr. Madoff in the first instance because—as is the case here—there existed a set of conditions

that the Court could impose to ensure his appearance before the court and to mitigate risk to the community of financial danger. *See id.* at 244. It was only *after* the Government perceived a violation of those bail conditions that they sought detention. *See id.* at 245-46. Obviously, Mr. Kwok is not alleged to have violated any bail conditions and, if released, he would abide by any Court-imposed conditions.

Other courts in this district have favored release under appropriate bail conditions, again even where there were alleged threats of economic harm (and obstruction of justice), and even where the defendants in question were charged with serious financial crimes like a widespread conspiracy to commit fraud. For instance, in *United States v. Gulkarov*, the defendants—Mr. Gulkarov and his brother-in-law—were charged with leading a "$30 million healthcare fraud, money laundering, and bribery conspiracy" that lasted for "approximately seven years[.]" 2022 WL 205252, at *3. There, the defendants sought a modification of their bail conditions to permit limited communication between them, so as not to disrupt familial relationships and gatherings. *See id.* at *4. The court ultimately denied the bail modification request, yet it is important to note that the two family members charged with defrauding individuals were not detained in the first instance (nor later) based on the claimed risks of economic harm. *See id.* at *4. The dispute in *Gulkarov* was not *whether* bail was warranted, but rather *which* conditions were adequate to achieve the goals of the parties, and of the court.

The charges of fraud in *Gulkarov* are arguably as serious as those faced by Mr. Kwok. *See, e.g., id.* at *6 (describing the *Gulkarov* defendants as "the leaders of a *highly organized and complex* fraud scheme" that was perpetrated by "suborning perjury and fabricating documents for submission[.]" (emphasis added)). Despite the seriousness of the charges in that case, the *Gulkarov* court found that certain conditions—such as a significant

personal recognizance bond, travel restrictions, surrender of passports, and no contact with co-defendants—could reasonably ensure the protection of the community from any further alleged economic harm. *See id.* at *7.

The Government has failed to address substantively why a *combination* of conditions of pretrial release would not reasonably assure the safety of the community, as is required for pretrial detention. *See* Gov't Detention Mem. at 21-23 (separately addressing only four possible conditions of bail). In their Motion for Detention, after a lengthy recitation of their allegations against Mr. Kwok, the Government states in a conclusory fashion that "[t]here can be no reasonable assurance that Kwok will stop his criminal conduct due to pretrial conditions[,]" and "[s]imply put, there are no conditions of release that the Court can impose that will protect the community from severe economic harm at Kwok's hands." *Id.* at 19. The Government does not elaborate on why a combination of conditions (or other conditions not considered in its motion) would not ensure the safety of the community. *See id.* at 18-19.

Mr. Kwok's bail proposal offers more than adequate protection for the Government's (and any of the Court's) concerns. The proposed electronic monitoring of Mr. Kwok and his residence, armed security guards answerable to the Court on-site 24-7, and monitoring of Mr. Kwok's telephone and computer use would ensure his presence at trial and the safety of the community. Without travel documents, Mr. Kwok cannot travel, setting aside his unwillingness to do so. Mr. Kwok's wife and daughter reside in the United States and have pending asylum applications; relocating would present a substantial hardship to them—particularly given their lack of travel documents as well. Further, Mr. Kwok and his family now enjoy relative safety from CCP threats in the United States. Mr. Kwok is himself insolvent, and the substantial secured bond Mr. Kwok proposes would severely impair the finances of his close family should

he fail to meet the conditions of his release, strongly incentivizing Mr. Kwok to appear at trial. Indeed, Mr. Kwok is willing to accept whatever conditions the Court deems appropriate.

Even assuming *arguendo* that the Government has shown that Mr. Kwok poses a danger to the community *and* that no condition or set of conditions can reasonably assure the safety of the community, "the Bail Reform Act does not permit detention on the basis of dangerousness in the absence of risk of flight, obstruction of justice or an indictment for the offenses enumerated [in 18 U.S.C. § 3142(f)(1)]." *United States v. Friedman*, 837 F.2d 48, 49 (2d Cir. 1988) (remanding case to district court to set conditions for defendant's release on bail). As discussed, the Government has not met its burden of showing that Mr. Kwok is a flight risk or will obstruct justice, and he is not charged with an offense that is enumerated in section 3142(f)(1) of the Bail Reform Act.

VI. CONCLUSION

For the foregoing reasons, Mr. Kwok respectfully requests that this Court order that he be released on bail pursuant to the conditions he has proposed (and any other conditions the Court deems appropriate).

BROWN RUDNICK LLP

By: */s/ William R. Baldiga*

William R. Baldiga
Seven Times Square
New York, NY 10036
Tel: (212) 209-4942
Fax: (212) 209-4801
E-mail: wbaldiga@brownrudnick.com

Stephen R. Cook (admitted *pro hac vice)*
211 Michelson Drive, 7th Floor
Irvine, CA 92612
Tel: (949) 440-0215
Fax: (949) 252-1514
E-mail: scook@brownrudnick.com

Stephen A. Best (admitted *pro hac vice)*
601 Thirteenth Street NW Suite 600
Washington, D.C. 20005
Tel: (202) 536-1737
Fax: (202) 536-1701
E-mail: sbest@brownrudnick.com

Attorneys for Defendant Ho Wan Kwok

EXHIBIT 2

brownrudnick

STEPHEN R. COOK
direct dial: 949.752.7100
fax: 949.252.1514
scook@brownrudnick.com

April 19, 2023

VIA ECF
The Honorable Analisa Torres
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

RE: *United States v. Kwok et al.*, Case No. 1:23-cr-00118 (AT)

Dear Judge Torres,

This firm is counsel to defendant Ho Wan Kwok in the above captioned matter. We write to supplement Mr. Kwok's Application for Release on Bail Pending Trial (the "Application"). *See* Def. Mem. in Support of Mot. for Release on Bail Pending Trial (Mar. 31, 2023), ECF No. 24. As an initial matter, this Supplement responds to the Court's inquiry during the April 4, 2023 bail hearing (the "Bail Hearing") regarding the origins of a letter issued by the United Arab Emirates ("UAE") documenting Mr. Kwok's surrender of his UAE citizenship and passport. More importantly, this Supplement provides new information critical to the Court's bail determination that was not available until defense counsel became aware that on April 6, 2023, the U.S. District Court for the Eastern District of New York unsealed a criminal complaint charging 34 agents of the People's Republic of China in a transnational repression scheme to silence and harass Chinese dissidents, with Mr. Kwok designated "Victim-1."[1] *See* Compl. and Aff. in Support of Appl. for Arrest Warrants ("FBI Aff.") ¶¶ 89-108, *United States v. Yunpeng, et al.*, No. 1:23-mj-00334-SJB (E.D.N.Y. Apr. 6, 2023), ECF No. 2, attached hereto as Exhibit A. This Supplement addresses these two issues in greater detail below.

First, during the Bail Hearing, the Government claimed that Mr. Kwok has "at least three passports," from Vanuatu, Hong Kong, and the UAE. April 4, 2023 Bail Hr'g Tr. (Apr. 4, 2023) ("Tr.") at 7:17-18. That was both false and misleading—the Government knew at the Bail Hearing that Mr. Kwok did not have a Vanuatu or a Hong Kong passport because the Government had already seized them. The Government seized Mr. Kwok's *expired* Vanuatu passport, together with documentation reflecting Mr. Kwok's renunciation of his Vanuatu citizenship on March 15, 2023 during the execution of search warrants in this case. *See* Gov't Letter Resp. in Opp'n (Apr. 3, 2023) at 2-4, ECF No. 26. The Government seized Mr. Kwok's Hong Kong passport on March 15, 2023 while searching the residence of co-defendant Yanping Wang. *See id.* Concerning the UAE passport, counsel for Mr. Kwok explained at the Bail Hearing that this passport was surrendered to the UAE in connection with Mr. Kwok's asylum application in the

[1] Although the FBI Affidavit does not expressly identify Victim-1 as Mr. Kwok, the FBI Affidavit contains specific references to websites, videos, and verbatim threats directed at Mr. Kwok sufficient to identify him as Victim-1with near certainty. However, should there be any doubt concerning the identity of Victim-1, Mr. Kwok respectfully requests that the Court require the government to confirm or deny whether Mr. Kwok is Victim-1.

United States, and the undersigned proffered to the Court a letter dated April 11, 2018 from the UAE Office of Foreign Minister & International Cooperation confirming Mr. Kwok's renunciation of UAE citizenship. *See* Tr. at 20:20-21:15. The Court inquired of counsel concerning the authenticity of the letter and the source of the information concerning the surrendered passport. *See id.* at 32:19-33:21.

Attached hereto as Exhibit B is the Declaration of Victor X. Cerda, immigration counsel for Mr. Kwok. As Mr. Cerda explains, he personally surrendered Mr. Kwok's passport to a UAE government official in New York City on or about April 17, 2018. *See* Ex. B, Decl. of Victor X. Cerda ¶ 4. The UAE official then handed to Mr. Cerda the letter dated April 11, 2018 that counsel for Mr. Kwok proffered to the Court during the Bail Hearing. *See id.* ¶ 5. Attached as Exhibit 1 to Mr. Cerda's Declaration is a true and correct copy of that same letter. Following the Government's March 15, 2023 seizures, Mr. Kwok has no passports, expired or otherwise.

Second, in his Application and at the Bail Hearing, Mr. Kwok explained that unlike many other high-profile defendants that the Government believes have the resources to jump bail and flee abroad (nearly all of whom are nonetheless granted bail and dutifully make their court appearances), Mr. Kwok's unique circumstances make his flight from the United States impossible. As perhaps *the* most prominent and globally recognized leader of the anti-Chinese Communist Party ("CCP") and Chinese pro-democracy movement, Mr. Kwok has been subjected to a relentless barrage of threats, harassment, surveillance, and electronic hacking attempts. Mr. Kwok explained through counsel in his Application and at the Bail Hearing that the electronic equipment, devices, and security precautions that he employs are necessary to minimize his exposure to the CCP's relentless campaign of online and physical harassment and attacks. Being arrested in the vicinity of equipment necessary to thwart exceptional hacking efforts by agents of the CCP is not evidence of a criminal motive or flight risk as the Government wrongly suggests.

Nonetheless, the Government—at least the part of the U.S. Department of Justice that brought this case—continues to speak derisively about Mr. Kwok's "purported," "alleged" status as an anti-CCP activist, using the extraordinary electronic and physical security precautions Mr. Kwok has been required to adopt as evidence of Mr. Kwok's criminal malfeasance and risk of flight. The Government ignores the INTERPOL Red Notice issued by the CCP for Mr. Kwok, and the consequences of the Red Notice for Mr. Kwok should he attempt to travel abroad. The Government ignores the extraordinary and sophisticated propaganda and hacking campaign that has been directed against Mr. Kwok by the CCP since at least 2017. Moreover, the Government ignores the federal indictments and guilty pleas of political operatives, lobbyists, and even a senior DOJ official, all of whom infiltrated the United States government at the highest levels and took illegal payments in connection with a scheme orchestrated by the CCP to force Mr. Kwok's extradition to China. The declaration submitted by Mr. Kwok in connection with his bankruptcy case details the criminal conspiracy against him and appends copies of the Government's Criminal Information as to Republican National Committee chair Elliott Broidy,[2] Criminal Information as to lobbyist Nickie Lum Davis,[3] and Factual Basis for Plea as to U.S. Department of Justice lawyer George Higginbotham.[4] *See* Decl. of Mr. Ho Wan Kwok in Support of the Chapter 11 Case and Certain Motions, *In re: How Wan Kwok*, No. 22-50073-JAM (Bankr. D. Conn. Mar. 20, 2022), ECF No. 107.

Now, undersigned counsel has become aware of *yet another* plot directed by the CCP to undermine Mr. Kwok and pressure United States law enforcement agencies to arrest or otherwise act against him—

[2] *See* Criminal Information, *United States v. Broidy*, No. 1:20-cr-00210 (D.D.C. Oct. 6, 2020), ECF No. 1.
[3] *See* Criminal Information, *United States v. Nickie Mali Lum Davis*, No. 1:20-cr-00068 (D. Haw. Aug. 17, 2020), ECF No. 1.
[4] *See* Factual Basis for Plea, *United States v. Higginbotham*, No. 1:18-cr-00343 (D.D.C. Nov. 30, 2018), ECF No. 13.

one that has been the subject of an ongoing investigation into CCP attacks on Chinese dissidents by the Eastern District of New York, the FBI, and the U.S. Department of Justice. On April 6, 2023, in a Complaint and Affidavit in Support of Application for Arrest Warrants ("FBI Affidavit"), a Special Agent with the FBI described in striking detail how Mr. Kwok, designated as "Victim-1", has been the victim of virtually every conceivable form of attack short of outright assassination by the CCP, in order to shut him up and to shut down his pro-democracy activities. The FBI Affidavit explains that:

1. The CCP "regard[s] political dissent as a national security threat and routinely monitor[s] and actively censor[s] political speech inconsistent with CCP-approved viewpoints . . . ." FBI Aff. ¶ 3.

2. The CCP's Ministry of Public Security ("MPS") "routinely monitors, among others, Chinese political dissidents who live in the United States . . . . The MPS regularly uses cooperative contacts both inside the PRC and around the world to influence, threaten and coerce political dissidents abroad. Indeed, ***I am aware that the PRC government has threatened and coerced Chinese political dissidents living in the United States in an effort to silence them.***" *Id.* ¶ 8 (emphasis added).

3. A task force within the MPS, defined in the FBI Affidavit as "the Group," "seeks to ***undermine the credibility of these [CCP] critics***" living in the United States and elsewhere. *Id.* ¶ 14 (emphasis added).

4. The Group was expressly tasked with creating and posting internet content targeting and maligning Mr. Kwok:

> ***A primary focus of the Group's harassment scheme*** is a critic of the CCP who fled the PRC and presently resides in New York City ("Victim-1"). ***Since at least 2017, Group members have sought to harass Victim-1*** through, among other means, anonymized social media accounts operated by the Group and by pressuring U.S. social media companies to remove Victim-1 and U.S.-based associates of Victim-1 from social media platforms. . . . [G]roup officers have a ***standing tasking requirement from MPS headquarters to post content targeting Victim-1***. Additional evidence uncovered during the investigation . . . indicates that a standing task requirement to target Victim-1 has existed since on or about December 2018 . . . ."

Id. ¶ 89 (emphasis added); *see also id.* ¶¶ 92-95, 96 (describing CCP propaganda attack on Mr. Kwok by accusing him of being "a fugitive who unscrupulously challenges U.S. laws on the Internet and accusing anyone giving Victim-1 money and public support as conspiring with Victim-1."); *see id.* ¶ 97.

5. Far from being limited to social media propaganda, the CCP's attacks against Mr. Kwok included attempts to incite and pressure U.S. law enforcement action against him, including criminal prosecution and/or forceful extradition to China. The CCP agents were tasked ***"to call on U.S. law enforcement to take prompt action against Victim-1***." *Id.* ¶ 99 (emphasis added). "Since Victim-1 fled the PRC, the PRC government has sought his/her return for prosecution in the PRC and has ***employed numerous methods to effect Victim-1's capture or arrest***. In May 2017, the PRC government sent several undeclared agents from the PRC's Ministry of

State Security ("MSS") to the United States to cause Victim-1's ***coerced repatriation*** to the PRC as part of the 'Fox Hunt' initiative. However, the U.S. government disrupted the PRC government's efforts to forcefully repatriate Victim-1, and Victim-1 continues to reside in the United States." *Id.* ¶ 90 (emphasis added).

6. The CCP creates false social media accounts in the names of purported U.S. residents with names including "Lacey Sutton," "Charlotte Gray," "Julie Torres," and "Stacey Altman." *Id.* ¶ 98. Those fake accounts then attack Mr. Kwok with English language comments, including "Why isn't [Mr. Kwok] in jail? What is the government doing?"; and "[Mr. Kwok] is a consummate swindler." *Id.* In September 2021, CCP agents uploaded a video (via fake social media accounts) with a caption stating that Mr. Kwok's "scams were exposed." *Id.* ¶ 100. Numerous CCP agents then commented on the video (using fake accounts), with statements including "[p]ity the people [Mr. Kwok] cheated," "[w]hat's new about [Mr. Kwok's] con," and "[Mr. Kwok's] running out of tricks." *Id.*; *see also id.* ¶ 101 ("cheat for money through various tricks," "the end of trickster [Victim-1]," "old [Victim-1] will lose everything for sure," "[Victim-1 supporters] wake up").

7. A primary goal of the CCP's attacks on Mr. Kwok has been to discredit Mr. Kwok. For example, a CCP agent tweeted: "I would like to ask all netizens not to be exploited by the media controlled rumors, gossip, and the rapist, plague ghost [Victim-1]! Plague Ghost [Victim-1] is the biggest 'national thief' on the internet." *Id.* ¶ 105.

8. CCP agents also infiltrated and disrupted events held by Chinese dissidents, or falsely accused them of violating the terms of service of social media platforms. *Id.* ¶¶ 109-11, 119-20.

As described in the FBI Affidavit, the FBI investigation provides confirmation of all of the threats, harassment, surveillance, and continuous electronic attacks that Mr. Kwok has experienced and that he described in his Application and at the Bail Hearing. Despite this, the Government bizarrely refuses to concede that since at least 2017 Mr. Kwok has been a primary focus of the CCP's disinformation and propaganda machine, and the victim of numerous attacks aimed at repatriating him to China, shutting down his dissent, or both. Other victims identified in the FBI Affidavit also described online and physical harassment by CCP agents but explained that, unlike Mr. Kwok, they did not suffer physical attacks *while in the United States*. *See, e.g.*, *id.* ¶ 150. Despite all of this, the Government implausibly maintains that Mr. Kwok presents a risk of flight.

Whether or not this case is evidence of the CCP's success in duping the Government into prosecuting Mr. Kwok—one of the CCP's known primary objectives—and whether the purported victims of the fraud alleged in the Superseding Indictment are in fact agents acting on behalf of the CCP will be decided at trial. However, the FBI Affidavit removes all doubt concerning the lengths to which the CCP will go to silence Mr. Kwok, one way or another. In the face of those threats, Mr. Kwok remained in the United States as the U.S. government's investigation swirled around him for the past year, and he will remain in the United States if he is released on bond. If, for no other reason, than because the risk to his life is simply too great for him to leave.

Nor can the Government point to Mr. Kwok's use of the electronics and electronic devices found during the execution of the search warrants as evidence that he is a flight risk. They are, as the FBI Affidavit makes clear, evidence of the extraordinary precautions Mr. Kwok was required to take to minimize CCP hacking and electronic harassment. The fact that the Government failed to mention the conclusions the FBI and the U.S. Attorney's Office for the Eastern District of New York made concerning

Mr. Kwok's status as a victim of CCP harassment, including hacking efforts, efforts to discredit him, efforts to prompt U.S. law enforcement action against him, and attempts to physically coerce him back to China, are inexcusable material omissions that are far too meaningful to ignore.

Mr. Kwok is not a flight risk. Indeed, his status as an enemy of the CCP has, perversely, ensured just the opposite. Moreover, Mr. Kwok's continued pre-trial incarceration, under near continuous lockdown and where he is subject to significant risk of grievous injury or death, makes it impossible for him to meaningfully participate in his own defense of this complex case. Accordingly, Mr. Kwok respectfully requests that the Court order his release on the conditions proposed in his Application.

Respectfully submitted,

BROWN RUDNICK LLP

Stephen R. Cook

cc: All counsel of record

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x
UNITED STATES OF AMERICA

v. 23 CR 118 (AT)
Arraignment/Bail

HO WAN KWOK
YANPING WANG

Defendants
----------x

New York, N.Y.
April 4, 2023
11:30 a.m.

Before:

HON. ANALISA TORRES
District Judge

APPEARANCES

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
RYAN B. FINKEL
JULIE MURRAY
MICAH FERGENSON
Assistant United States Attorneys

BROWN RUDNICK LLP
Attorneys for Defendant Kwok
STEPHEN COOK
WILLIAM BALDIGA

LIPMAN LAW PLLC
Attorney for Defendant Wang
ALEX LIPMAN

CHAUDHRY LAW PLLC
Attorney for Defendant Wang
PRIYA CHAUDHRY

ALSO PRESENT: KARINA CHIN VILLEFORT, PTS (SDNY)
GEOFFREY MEARNS, Paralegal Specialist (USAO)
BRENDA CHEN, Interpreter (Mandarin)

(In open court)

THE COURT: Good morning.

We are here in the matter of the United States v. Ho Wan Kwok and Yanping Wang.

Would you make your appearances, please.

MR. FINKEL: Good morning, your Honor. Ryan Finkel Julie Murray and Micah Fergenson for the United States. We're joined today at counsel table by Geoffrey Mearns, who is a paralegal in our office.

MR. COOK: Stephen Cook and William Baldiga on behalf of Mr. Kwok, who is present in custody and being assisted by a Mandarin interpreter.

MR. LIPMAN: Your Honor, Alex Lipman of Lipman Law Firm PLLC, and at counsel table also Priya Chaudhry of the Chaudhry Law Firm PLLC for defendant Yanping. Ms. Wang is here, she is present, and she is being assisted by a Mandarin interpreter.

THE COURT: Please be seated.

I would like the interpreter to identify herself, please.

THE INTERPRETER: Good morning, your Honor. My name is Brenda Chen. I'm a certified court Mandarin interpreter.

THE COURT: Please swear in the defendants.

(Defendants sworn)

THE COURT: Please be seated.

Mr. Kwok and Ms. Wang, I'm going to ask some questions. Wait for me to call your name, and then you may answer.

Do you understand what the interpreter is saying?

Mr. Kwok?

DEFENDANT KWOK: Yes, your Honor.

THE COURT: Ms. Wang?

DEFENDANT WANG: Yes, I do.

THE COURT: Do you understand that you're now under oath, and that if you answer any of my questions falsely, you may be prosecuted for perjury based on any false answers?

Mr. Kwok?

DEFENDANT KWOK: Yes.

THE COURT: Ms. Wang?

DEFENDANT WANG: Yes.

THE COURT: I understand that I must first arraign both defendants, correct?

MR. FINKEL: Yes, your Honor.

THE COURT: Do you each have a copy of superseding indictment?

Mr. Kwok?

DEFENDANT KWOK: Yes.

THE COURT: And Ms. Wang?

DEFENDANT WANG: Yes, your Honor.

THE COURT: Has the document been translated for you?

Mr. Kwok?

DEFENDANT KWOK: Yes.

THE COURT: Ms. Wang?

DEFENDANT WANG: Yes.

THE COURT: Do you want me to read it to you or do you waive its public reading?

Mr. Kwok?

MR. COOK: Mr. Kwok waives reading of the indictment, your Honor.

THE COURT: Ms. Wang?

MR. LIPMAN: Your Honor, Ms. Wang waives the reading of the indictment and asks a plea of not guilty be entered.

THE COURT: How do you plead, guilty or not guilty?

Mr. Kwok?

DEFENDANT KWOK: Not guilty.

THE COURT: And Ms. Wang?

DEFENDANT WANG: Not guilty.

THE COURT: A plea of not guilty will be entered for each defendant, and the record should reflect that both defendants have been arraigned.

I'm now going to address Mr. Kwok's bail application, which the government opposes.

I have reviewed the parties' submissions dated March 15, 28, and 31 of this year, and April 3 of this year. I have also reviewed the pretrial services report dated March 15

of this year. Judge Lehrburger will hear Ms. Wang's bail application today at 2:00 p.m.

Mr. Kwok has been detained since March 15, the date of his arrest. He was arraigned on the preceding indictment before the Honorable Katharine H. Parker and detained on consent without prejudice to a future bail application.

Pursuant to 18 United States Code, Section 3142(e), the question I must resolve is whether there is a condition or combination of conditions that will reasonably assure the appearance of the defendant as required and the safety of any other person and the community.

To make this bail determination, I must undertake a two-step inquiry. First, I must determine whether the government has established by a preponderance of the evidence that Mr. Kwok presents a serious risk of flight or obstruction of justice. 18 United States Code, Section 3142(f)(2). *United States v. Friedman*, 837 F.2d 48, 49 (2d Cir. 1988). If the government carries this initial burden, I must then determine whether there are reasonable conditions of release that can be set or whether detention is appropriate. To support detention based on danger, the government's proof must be clear and convincing. 18 United States Code, Section 3142(f)(2).

The factors that I must consider in making my determination are set forth in 18 United States Code, Section 3142(g). They include the nature and circumstances of the

offense charged, including whether the offense is a crime of violence, a violation of United States Code, Section 1591, a federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive or destructive device; the weight of the evidence against the defendant; the history and characteristics of the defendant, including his or her physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, record concerning appearance at court proceedings and whether at the time of the current offense or arrest the defendant was on probation, on parole or other release pending trial, sentencing, appeal or completion of a sentence for an offense under federal, state and/or local law; and the nature and seriousness of the danger to any person or the community that would be posed by defendant's release.

I have carefully considered all of these factors and the parties' written submissions.

Does the government wish to be heard?

MR. FINKEL: Yes, your Honor.

Your Honor, there are many aspects of this case, as the Court may be familiar with the indictment, that are extraordinary. This is a billion dollar fraud case, in which Mr. Kwok preyed on thousands of individuals to line his own pockets with extraordinary luxurious items. But the issue

today, your Honor, isn't extraordinary. It's actually quite straightforward. A simple application of the factors that the government has outlined in its letters to the legal framework that the Court just went through makes clear that detention is appropriate is in this case.

As this Court knows, pretrial services doesn't often recommend detention in a fraud case, but they've recommended it here, and for good reason. This court should adopt that recommendation.

I want to start first with the risk of flight. As the Court mentioned, the government's obligation is to demonstrate just by a preponderance that there is a risk of flight with respect to the defendant. So what we have here again, pretty straightforward: An exceptionally wealthy, exceptionally well-connected, exceptionally sophisticated, deeply experienced world traveler, who is 54 and has barely spent five continuous years in this country. He has at least three, and as many as eleven, different passports. He has a co-defendant who's currently fugitive who's in the UAE right now, or believed to be. The defendant has access to private aircraft and a compelling, exceptionally compelling, motive to flee, your Honor.

As a result of the charges in this case, the defendant faces decades in prison. The evidence is incredibly strong. It's not even really disputed by the defense in their briefing.

The indictment itself describes it in detail. At the end of the day, your Honor, simply following the money that the defendant collected, following the money into the pockets of his wife, his children, and himself demonstrates his involvement in this epic fraud.

So, again, given the incentive structure, why would the defendant stay? It's simple rational thinking. Why would he subject himself to the court process, to potentially decades in prison, followed by likely deportation, if he can take advantage of an alternative, the alternative of flight.

So the defense claims in its briefing that he essentially is incentivized to remain for two primary reasons: The first is that his wife and his daughter are here in the United States, but his wife and his daughter have been here even less time than he has been, and they have an incentive to flee as well. They're referred to in the indictment; they were recipients of the fraud money; and they can leave the country just as easily as the defendant can.

And, in any event, the defendant has a son in the United Kingdom, in a foreign country. He certainly would be incentivized to spend time with his son, to be with his son in the same way the defense claims he is incentivized to stay to be with his wife and daughter.

Defendants, your Honor, in this courthouse flee with far less global reach than Kwok has. People are willing to

rearrange their lives who have been here for decades to avoid prison. Kwok doesn't even have any meaningful ties in this country that make such a rearrangement impossible or even difficult. He's been here, according to the defense, continually since approximately 2017. That's it. And according to the indictment, he's been involved in this conspiracy since 2018, which means his ties to the United States, your Honor, are about laying the groundwork for and committing a billion dollar fraud.

That brings us to the second reason the defense says he's incentivized to stay. They claim he cannot travel anywhere because of fear of being repatriated to China. But that argument doesn't withstand scrutiny either, as we've outlined, your Honor. According to the defense, the defendant fled China in 2015 to escape China. If he was concerned about the Chinese trying to capture him or repatriate him at that time, according to the defense, he wouldn't travel internationally; yet, he did. Even the defense concedes he traveled from 2015 to 2017. His passports make that clear. So he traveled. He wasn't afraid to travel internationally. He wouldn't be afraid to travel internationally now.

Then we turn to does the defendant have the ability to flee? This too, your Honor, is fairly straightforward. Kwok has means; he has sophistication; and he has connections, which all make his ability to flee, like I said, straightforward.

I mentioned the passports. But that's not all he has. As the government outlined, your Honor, he had $394,000 in cash - cash that he didn't tell pretrial services about - in his safe in his mansion in New Jersey. He had another hundred thousand worth of gold coins, foreign currency; and his co-defendant had more than a hundred thousand dollars in a safe in her condo.

There was also a document in his co-defendant's apartment demonstrating that Kwok has access to $34 million in bank accounts. And, your Honor, I can tell the Court that the government has worked quite hard in tracing the fraud proceeds in this case, and we've traced it not just throughout the United States, but we've tried to trace it internationally. And what we've seen is money flowing to Switzerland, to the UAE -- which I'm going to talk more about -- to England, and possibly even Kazakhstan. Yet, the defendant claims that he -- let me take a step back for a second.

So does the defendant have the financial means to flee? Absolutely. And it's impossible for this Court to have any reasonable assurance of where that bottom is, where his money is, particularly because he lied to pretrial services about the $394 plus thousand that he had in his mansion.

So let's turn to know-how. Does the defendant have the know-how, the sophistication to flee. Again, simple, straightforward. Yes, he does. This is a man who has

cellphone scramblers, Faraday bags, burner phones, obfuscates his funds, uses shell companies, uses intermediaries, and, as I mentioned, has at least three and possibly as many as eleven passports. He's a deeply experienced world traveler, who admitted to pretrial services to traveling to over 50 different countries. That's exceptional. He certainly has a sophistication and know-how to flee.

Then the question becomes does he actually have anywhere to go? And the answer to that, your Honor, again simple, straightforward. Yes, he clearly does. He has a UAE passport somewhere. We don't know where it is. We have a copy of it. But what that UAE passport shows is that he's likely a citizen of that country because when you hold a passport that indicates citizenship for a particular country -- and we checked with the office of international affairs, DOJ's OIA office on this -- the UAE does not extradite citizens.

And, of course, your Honor, his co-defendant is in the UAE right now, or at least we believe him to be. There are operations for G Clubs, which is an arm of his fraud in the UAE. There are operations for the Himalaya Exchange in the UAE, another arm of his fraud. There were two personnel, two employees of G Club who spent months in the UAE and were able to obtain visas in the UAE. The defendant can go to the UAE. He would be safe, effectively safe from the reach of the government there, and he knows that because he's made

statements about that.

So has the government established by a preponderance that the defendant is a risk of flight? Yes. And there really shouldn't be much of a serious dispute about that. So then the question becomes what conditions -- are there conditions that the Court can impose to reasonably assure that there will not than a flight? There aren't any.

So let's start with what the defense has put forth. They put forth a $25 million bond secured by $5 million cash. Now, if we take a step back for a moment, what is the purpose really of a bond? The purpose of the bond, your Honor, is to change the incentive structure because the defense is incentivized to flee, he's incentivized to get away from possible prison, right? So the thinking of a bond is if he flees, he loses money. So that's supposed to flip the incentive. But it doesn't here. It can't here.

And why is that? Because, as the defendant said in his pretrial services report, he claims not to have any money, and whatever money he does have is subject to the bankruptcy proceedings, which is to say all of his money is either forfeitable or encumbered by bankruptcy, so there is no money he could put up that will provide any moral suasion for him to remain.

And this, your Honor, it's also important to keep this in mind. The defendant has an uncanny ability to convince

victims to depart with hundreds of millions of dollars. In just weeks, he raised $400 plus million from thousands of victims. So if he were to lose $5 million, which is really all he's offering, $5 million cash, what cost for him? Really none. He can earn it again.

And that should raise another question. Where is this $5 million coming from? If he told pretrial services that his net worth is $10,000 comprised of the value of his clothing and two cellphones, where is this $5 million? $5 million that he hasn't told the bankruptcy trustee about. So there's no money. There's no PRB that could be offered here that flips the incentive for the defendant to remain.

What about cosigners? Your Honor, given the allegations in this case, the defendant's fraud is, quite frankly, sociopathic. He has taken money from thousands. Victims have cried in interviews that we have held with them explaining how their lives have been forever altered and damaged by the money that he has used to purchase Lamborghinis and Bugattis and $30,000 mattresses. He's not going to care if by leaving this country to avoid prison he saddles a couple of people, who he hasn't even named, with a $25 million judgment.

So, the defense, I would argue, your Honor, tacitly concedes all of this. They say that the PRB cosigners are really insufficient and so what they offer instead is or on top is this proposal of armed security. Now, the mere fact that

this is proposed, I submit, this Court should swiftly reject it. Second Circuit, we pointed this out, disapproves of these two-tiered approaches to American justice where the rich get to provide their own private security; in this case, in a defendant's palatial Connecticut estate, where as those without access to his means are subject to the federal system. That's not fair. That's not right. And this Court shouldn't endorse it.

But even putting that aside, even putting what the Second Circuit said aside -- and we don't think this Court should -- these security arrangements don't work. They don't work because of incentives. Security personnel are, at least according to the defense, will be answerable to the Court and government. But it doesn't really work that way because they're going to be paid by him. They're going to paid by the defendant, and security is going to be incentivized to continue to get paid. And security is going to be incentivized not to tell the Court when the defendant does something he shouldn't do because it might risk him being remanded; it might risk security being unable to continue getting paid by the defendant. Security does not work. And if it is true, as the defense claims, that the only way for the Court to be reasonably assured that the defendant won't flee is for him to be surveilled 24 hours a day, seven days a week by an armed guard, there's a proper place for that. And that's the MDC.

But there's something else, your Honor, even putting aside those conditions. Ultimately, when a Court permits pretrial release, it's about trust. It's about trust that a defendant will appear in court as required. It's about trust that a defendant will not endanger the community, which I'll talk about. There is no reason for this Court to trust the defendant, simply based on what has happened since he was arrested. He lied about money that he had in his safe, nearly $500,000 of it. He didn't disclose his travel documents. He circumvented the rules of the MDC, as we've explained in our papers. There's no reason for this Court to trust him just on those records. And I'm not even talking about what has happened in other cases, which I'll turn to.

In fact, let's talk about obstruction. At least three different judges, in both federal and state court, have found, in effect, that the defendant obstructs justice. Judge Ostrager, New York State Supreme Court, said, I'm quoting, "The defendant's efforts to avoid and deceive his creditors by parking his substantial personal assets with a series of corporations, trusted confidantes and family members," which is to say, your Honor, a judge found he moves money around to hide it from the judicial process.

Judge Ostrager is not alone. Judge Manning, a Bankruptcy Judge in the District of Connecticut, found similar actions that Kwok has taken. And even worse, Judge Manning

found the defendant fomented unrest, threatened a court-appointed bankruptcy trustee, resulting in death threats, resulting in harassment. And this is on video. This is what the defendant said on video about that bankruptcy trustee.

On November 21, 2022, according to the bankruptcy judge's findings, "To deal with this rogue" -- I'm quoting, rogue being the trustee -- "we have our rogue's ways. In a few days you will see what would happen to him. Calamities, I can tell you guys. They will suffer calamities!"

On top of that, he encouraged his followers to flood the bankruptcy docket with false claims, to tie up the bankruptcy, to cause the trustee to expend additional resources to cause problems. We talked in our papers about how he's threatened victims, victims in this case; how he's threatened them by saying he would post associations between him and the victim, victims who have family in China, and thereby him posting publicly that he was associated with those victims would threaten the victims' families who happen to be in China.

This is all definitional obstruction. It's not theoretical. It's not speculative. It's not even isolated. It's continuous. It's ongoing. It spans multiple years, multiple courts, multiple judges, and the defendant is exceptional in his willingness to continue to do this unabated.

So has the government demonstrated that there's a risk of obstruction if he's released? Yes, we certainly have.

So, step two, what conditions can be imposed to prevent obstruction? The answer is there are none. There aren't any. Pretty much all this Court could do is ask the defendant not to obstruct. But we know that doesn't work. Because that was tried in the bankruptcy court in Connecticut. That was tried in the New York State Supreme Court. He doesn't follow court orders. To the defendant, a court's order isn't worth the paper that it's printed on. His low regard for the judicial process and respect for due process is remarkable. And it shows that there are no conditions that can change that because if there were, it would have already happened. So again, this is straightforward. He should be detained.

Let's turn to danger. The defendant's willingness to defraud for years thousands upon thousands of individuals is quite something. He's not stopped despite the many offramps that have been the flag, the red flags he's seen, the intervention of the SEC, the government's seizure of $630 million, his embroilment in various litigations, the fact that entities of his received grand jury subpoenas, the fact that he knew the government was on his tail, he kept going.

And in February 2023, just essentially weeks before his arrest, he announced a new offering, the A10 offering. That's what he called it. And he claimed that this offering was a way for investors to invest 5 percent -- to purchase 5 percent of the Himalaya Exchange and 5 percent of a social

media company called Gettr. And like the other investments that the defendant has proclaimed and promoted, this too had all the hallmarks of fraud. He claimed it was guaranteed and that they would get their money back and everyone would make all this great money.

But the difference about the A10 offering, your Honor, this I think speaks to obstruction and also risk of flight, the of point of it was that the money was going to be sent to the UAE, away from -- and using Kwok's words -- the long-arm jurisdiction of the United States.

So is he a continuing danger to the community? Absolutely, because he hasn't stopped. He hasn't stopped after the SEC intervened in the GTV Private Placement, after his bank accounts were closed, after many of his entities received subpoenas, and after the government executed $630 million of bank account seizures.

Indeed, your Honor, the money that the SEC was able to intervene and save from being defrauded with respect to GTV Private Placement, it's now being distributed. It's in the process of being distributed to the victims through a fair fund distribution. And what the defendant has done is encouraged his victims to reinvest that money in other fraudulent vehicles, which is to say he keeps going. He keeps going.

So what conditions could the Court impose that would stop all of this? The defense basically offers one. The

defense offers the condition of if he wants to engage in a financial transaction, he must get either the government's or the Court's approval. But this condition is meaningless. It's meaningless because he lies to pretrial services. He circumvents court orders. It's something that can't possibly work because the defendant can't be trusted.

But more than that, your Honor, as I've explained and as our papers made clear, he works through intermediaries and shell corporations. He has the ability to conduct fraud without himself, at least on paper, signing a financial transaction. He can work through others. And that's how this whole fraud worked, which is all to say, your Honor, there are no conditions that can prevent the deep, ongoing danger that the defendant presents to this community.

Your Honor, given all of this, the defendant's incentive structure, he is highly incentivized to flee, his deep resources, his connections, his network of supporters who will harbor him, his documented unwillingness to follow court orders, his threats against court-appointed officials, including some of the people at this table, his sophistication, his multitude of travel documents, his access to cash, his willingness to lie to pretrial, his willingness to circumvent rules in the MDC, his concealment of funds, there are no conditions, your Honor. There are none that can reasonably assure the Court that he won't flee; that the community will be

safe; and he will not obstruct these proceedings.

Pretrial services is correct: The Court should follow their recommendation and detain the defendant pending trial.

THE COURT: I'll hear from counsel for Mr. Kwok.

MR. COOK: Good morning, your Honor. Stephen Cook on behalf of Mr. Kwok.

Just as an initial matter, your Honor, we've seen no evidence that Mr. Kwok threatened anyone at the table, at the prosecution table. I would certainly be interested in seeing that because I'm aware of none of that. He's been in custody since March 15, and we've seen no evidence of any threats being issued to any members of the prosecution team or anyone else, for that matter.

Let me just address the very first question that Mr. Finkel stated: Why would he stay? There are many reasons why Mr. Kwok would stay, and there are even more reasons why he would never leave. I want to go through each of the arguments made by the government, but I want to address first this idea that the UAE is this ideal place for Mr. Kwok to abscond to.

And the government begins by saying that he has three passports. The government knows that's not true. As they state in their own paperwork, this passport to the country of Vanuatu expired years ago, and it's in their possession in any case.

The UAE passport that they don't have, but they claim

that he has, was returned to the UAE government years ago. He renounced his citizenship to the UAE years ago, and received a letter from the UAE government, which I can present to the Court and the prosecution. I would have filed this, but we just learned of this issue yesterday in government's filing.

April 11, 2018, he renounces his citizenship, and the UAE confirmed that renunciation. That passport was returned by his immigration counsel to a representative of the UAW government. So he has no UAE passport. He has no passport to Vanuatu. He has no citizenship with that nation. The third passport they reference is one to Hong Kong, the very nation that he fled from, and that passport is in the government's possession. So of the three passports they claim are available for him to use, there are zero, none. And I don't think there can be any dispute about that.

Now, Mr. Finkel says quote that "Mr. Kwok knew the government was on his tail." And that's absolutely correct. Hundreds of millions of dollars seized, grand jury subpoenas issued, SEC subpoenas issued; Mr. Kwok has known that he is a target of a federal criminal investigation for the better of a year. And despite his alleged sophistication, despite being essentially a criminal mastermind, an escape artist, what did he do with that knowledge? With all of the resources they claim he has, with the passports he says -- they say he has access to, with all the supporters worldwide, what did Mr. Kwok

do in the face of that knowledge that the government was on his tail?

He did nothing. He didn't leave. He went nowhere. He continued to reside in the same residences he had been in for years. All of the evidence that they identify that was found during the search that they point to as evidence of his being a risk of flight: The multiple cellphones, the cellphone scrambler, Faraday bags, cash. If he was this criminal mastermind, knowing the government is on his tail, he left all of those materials in the worst possible place, the place the government knew that he resided.

Mr. Kwok was not unfamiliar with an FBI search. Years ago the FBI had searched the Sherry-Netherland residence where he was arrested. He knows how thorough they are. He knows what's involved and how many agents show up. Yet, despite that knowledge and despite the government being on his tail, he did nothing to hide computer equipment or cellphones, with the exception of putting one under his mattress, as if that was going to remain unfound by the FBI. This was not evidence of a man seeking to flee. It was evidence of a man who had decided to stay in the face of the accusations that he knew were coming any day.

Why didn't he leave? Well, first of all, there's a Red Notice against him issued by China. We laid out in great detail in our papers why he fled China, why he can never go

back to China, and why they want him, and the enormous efforts the Chinese government and the Chinese Communist Party in particular, have taken to try and get him back in their clutches.

This is documented. You read about it, and it sounds like it comes from a spy novel. And then you start looking at the sources and you realize this all really happened. High-level DOJ officials being bribed to get our government to extradite him to China. There's a trial going on in Washington D.C. right now in which an individual failed to register as a Chinese foreign agent, who was lobbying our government illegally to get this man extradited back to China. Four agents of the Chinese intelligent service accosted Mr. Kwok in his home, threatened him, and tried to get him to return to China. They were arrested by the FBI, and because of interjurisdictional squabbles between the State Department and DOJ, they were not arrested, and they were allowed to return to China. But the Chinese Communist Party's interest in my client is well documented, well-known and indisputable.

That's why you have cellphone scramblers. The Chinese government hacks at every opportunity every electronic device that Mr. Kwok has. As soon as it's hacked, he replaces it with another one, over and over and over again. That's why you have so many phones and so many computers. That's why there's a cellphone scrambler which was recommended to him by the

security service that he hired to help him prevent this hacking. The Faraday bags designed to prevent hacking. Not by the U.S. government. They weren't hidden from the FBI. But to minimize or help reduce the risk that they would be hacked by the Chinese Communist Party, as has been done over and over and over again.

One of the things we didn't mention in our papers, but we recently discovered was that back in 2019 and 2020 Twitter, the social media platform, took down over 200,000 fake accounts all created by the Chinese Communist Party to spew Chinese propaganda. And that propaganda fell into four categories. This is all spelled out by in a report generated by Stanford University. Those four categories, not surprising, were Taiwan, the pro democracy movement in Hong Kong, and the second most prevalent topic, of Chinese propaganda, was Mr. Kwok personally individually documented in the Stanford report.

The level of attention that Mr. Kwok generates from the Chinese Communist Party is undeniable and extreme. So he has gone through extreme efforts to protect his ability to broadcast his message to his followers with minimal or reduced obstruction from the Chinese Communist Party. That's why you see all of these elements that you would typically find from a spy novel, for example, present in his apartment. Not because he's hiding it from the U.S. Government. He's trying to protect his ability to get his message out to the millions of

followers that he has worldwide.

I want to address the government's arguments individually

THE COURT: I would like you to go back to the issue of the passports. Is it your position that he has no valid passport?

MR. COOK: The only valid passport that we're aware of -- and Mr. Kwok wasn't even aware of this until we saw it in the government's filing -- is the Hong Kong passport that was in his co-defendant's possession, that the government now has. That was the only currently valid passport. The other two he previously had -- Vanuatu and UAE -- he renounced his citizenship to both of those nations formally as part of his asylum application years ago. That's it. There are no others.

THE COURT: Go ahead.

MR. COOK: Concerning Mr. Kwok's extensive international travel, it's -- well, he did travel extensively at one point in his life, but for the past six years, he hasn't stepped foot outside this country. There's many good reasons for that:

(1) His asylum application, which places restrictions on that sort of travel.

(2) The Chinese Red Notice out against him.

(3) The four Chinese agents that accosted him in 2017 highlighted and elevated his level of concern as to his own

safety were he to leave the United States to a level that hadn't been seen before.

So he -- for example, his family had planned a couple of years ago a vacation to Hawaii. He was advised not to even take that vacation because if there was a mechanical problem with the plane, it could land at a foreign country, and he could run into problems. He faces almost certain death if he is repatriated to China. He will do nothing to jeopardize that, even if it means spending time in a U.S. prison.

The government claims that, well, his asylum application could be revoked if he's convicted. That may be true. That's years down the road. That's a hypothetical. The consequences if he were to leave are a certainty. He would also have opportunity to seek asylum or protection under the Convention Against Torture. Yes, that could mean deportation to a third country, but far preferable to living life on the run with a Red Notice from the Chinese superpower and another Red Notice from the American superpower, there's literally nowhere left in the world for him to reasonably go under those circumstances. He cannot flee. There is nowhere he can go where he would be safe. He is here. Whether he wants to or not, he is here, and he has been here for the past six years, and that is evidence alone of his desire to remain even in the face of the government's investigation.

The foreign passports we've talked about, your Honor,

and none of them have been used, in any case, for at least six years.

We talked about the UAE. In addition to the renunciation of that citizenship, Mr. Finkel mentions that there is no extradition treaty between the United States and UAE were Mr. Kwok to flee there. That's true. However, the UAE does have an extradition treaty with China. China and the UAE have extensive connections. In fact, the UAE is China's number one beneficiary of foreign investment of all the states in the Gulf. The relationship between the UAE and China is well-documented and public. The extradition treaty is public as well. That is probably the worst place he would go, second to China itself. So UAE is out. It was never an option, even were he to want to leave this country.

The currency found during the execution of the search warrants, the hundreds of thousands of dollars. First of all, the three residences that were searched: The Sherry-Netherland penthouse, the Greenwich estate, and the property in Mahwah, none of those properties are owned by Mr. Kwok. They're owned by other entities or other family members, not him. They are used by many family members, dozens of employees of many different companies, not just Mr. Kwok. None of that money was his. He didn't have access to the safes, and in at least two of those cases didn't even know those safes existed. They weren't in his bedroom. One of them belonged to his wife, and

he didn't know the combination. So he didn't lie to pretrial services. He didn't even know the money was there. That's the reality.

And so the assumptions that are being made by the government, as they've made assumptions in all these other areas are skewed entirely in a way to portray Mr. Kwok in the worst possible light. The reality is the money wasn't his. He had no reason to disclose something he didn't know existed.

Concerning the cellphones and the scrambling device and Faraday bags, I mentioned that, your Honor. These are recommendations made by his security staff who made every effort to try and minimize the hacking that took place. And to give you another example of just what he and anyone associated with Mr. Kwok experienced from China.

A law firm that was retained to assist him with his immigration asylum paperwork was hacked. Confidential information stolen from the law firm and publicly disseminated. Another law firm that was retained in connection with bankruptcy proceedings was hosting a conference call with 30 or 40 people from all over the world, including the U.S. trustee. On the day of that meeting, immediately prior to, that law firm's entire security system electronically was hacked and shut down. The elevator system was shut down causing a delay in the meeting. It never happened before and hasn't happened since. These sorts of hacking efforts and attempts follow him

wherever he goes simply because of who he is and the message that he espouses.

Concerning the civil lawsuits and the bankruptcy litigation and Mr. Kwok's alleged disregard for the law, first of all, it's important to keep in mind that much of the civil litigation, including the civil litigation that ultimately led to the bankruptcy filing was prompted by the CCP itself. That is not just a conspiracy theory. That is a documented fact. In fact, the *Wall Street Journal* in July of 2020 wrote an article, "China's New Tool to Chase Down Fugitives: America Courts. Beijing is turning to lawsuits to pressure expatriates to return home and face corruption charges as an end run around U.S. law." Their efforts to use the court system to leverage and exert pressure against people they don't like is documented and well-known and something that Mr. Kwok knows of firsthand. So Mr. Kwok has aggressively defended himself in all of that litigation and in the bankruptcy proceedings.

Now, concerning the source of the $5 million security for the bond. We never in our papers suggested Mr. Kwok would or even could himself put umm $5 million. However, what we proposed was that there would be two financially responsible adults who would sign onto that bond, and that the source of that money would be vetted with the government so they could assure themselves that the source had nothing to do with the fraud in this case, and that the two financially responsible

adults, one of whom would not be a family member, they could also vet to assure not only that they are not purported victims, but that they had moral suasion over the defendant.

The government also claims that Mr. Kwok -- they allude to this in their paperwork -- that he fails to follow Bureau of Prisons' procedure in connection with some family members who wanted to make phone calls with Mr. Kwok, and they used the legal pathway for legal calls instead of family calls. We looked into that, your Honor, and, in fact, our ability to communicate with our client via telephone was shut down because of that. We found out what happened. It was a mistake. We wrote to the Bureau of Prisons explaining exactly what happened. In fact, the person who did this even wrote in the application for calls "this is for family calls." It was a language issue and miscommunication on their part that we corrected. It hasn't happened again and won't happen again, and our legal calls have been reinstated. This has absolutely nothing to do with anything Mr. Kwok did or even knew about at this time, so it would be completely unfair to hold that against him.

We also proposed this round-the-clock 24/7 security. It's interesting Mr. Finkel says it's not fair and not right when this exact procedure is something the government has signed off on in other cases, but apparently in this case it's not fair and not right. Look, we don't think it's necessary.

We don't think he is leaving. We don't think he would ever leave this country. However, we offered that as additional assurance and security that he would in fact remain here and can be monitored by professionals, and we said armed security not because we need them to be armed, but because armed security happened to be current or former law enforcement adding a level of professionalism. And we can arrange that engagement in any way the Court deems acceptable so that they report directly to the marshals, to the FBI or to the Court, and not to us. We can fashion that engagement in whatever way works. The government has done this before and done it in an acceptable fashion. There's no reason why it can't work in this case as well as an additional layer of protection against flight.

Concerning his purported efforts to contact victims or set up new businesses or perpetrate additional frauds, that can be dealt with as well. The Southern District has dealt with something in the SBF, Sam Bankman-Fried, case where they restricted his access to any electronic communications to a single laptop that is restricted to allowing the defendant access to the discovery so they could review it and to communicate with lawyers, and nobody else. If that is the government's legitimate concern that he is going to continue to communicate with the world and perpetrate frauds, we're amenable to that condition. There are conditions to satisfy

each of these concerns, and we can fashion them. To date the government has simply been unwilling to even have a conversation with us about it, but it's not impossible.

Finally, your Honor, I just want to note for the record and for your Honor that the courtroom is full of many of Mr. Kwok's supporters, many of whom have traveled from San Francisco, North Carolina, around the country to be here in support. These are the purported victims? No, they're actually his supporters. They are here because they care about him. They care about his message and his mission in connection with bringing democracy to China.

Your Honor we remain open willing to employ any reasonable condition as the Court may deem necessary to secure Mr. Kwok's release. We think what we've proposed is acceptable and sufficient. We will certainly entertain anything further, and we're happy to work with the government if they're willing to tailor or contour our proposal to work out any of the legitimate issues that they might have

THE COURT: I want to go back to the passports. You're saying that your client wrote to the government of the United Arab Emirates declaring that he had renounced citizenship. Is that correct?

MR. COOK: Your Honor, I have the letter. If I could approach, I'm happy to provide the Court a copy.

THE COURT: You may. Thank you. I assume you don't

have a certified version of this.

MR. COOK: This is all I could get on such short notice, your Honor. I would note the picture of the passport submitted in the government's letter yesterday has redacted the passport number which is contained in this letter, so I have no way to confirm that the numbers match up, but I presume that they do. In any case, I can represent to the Court that the passport itself was hand-delivered to UAE, I believe it was the consulate, by Mr. Kwok's immigration counsel.

THE COURT: You're relying on your client's word on that issue?

MR. COOK: I'm relying on the word of my client's lawyer, his immigration counsel, on that issue. I can get a declaration from him to that effect, your Honor.

THE COURT: And the Vanuatu passport?

MS. McKINNEY: The Vanuatu passport, you can see in the picture submitted by the court, expired, and the government noted in its letter that it had other evidence, which it didn't talk about, suggesting that that citizenship had been renounced. I haven't seen any of that yet, but I know that to be the case from my consultations with his immigration counsel.

THE COURT: I'll allow rebuttal by the government.

MR. FINKEL: Thank you, your Honor.

If I can, your Honor, I'd like to start with the passport issue.

First, the defendant has proclaimed to have eleven passports, not just three. What I would also ask is, your Honor, how many defendants within a period of three or four years were able to obtain citizenship in three different countries and was on a pathway, or so he claims, to citizenship in a fourth, which is to say, your Honor, the defendant obtained citizenship in Vanuatu, obtained UAE citizenship, has a Hong Kong citizenship, and was trying to obtain citizenship here. He knows how to get travel documents. He was able to do it at least two other times, while he was on the run, according to the defense. So can he do it again? Of course he can.

And, your Honor, I just want to be clear about something else. Our burden is not to show that he will flee internationally or go to a place where he can't be extradited. The question is whether he will return to Court as required. People flee within the United States, as your Honor knows. And, your Honor, the defendant, as defense counsel has not disputed, has a broad network of people who are sympathetic to him, who, according to their social media posts, believe that all of this is a political charge, which is to say they're motivated to help him. And it's not. Those are meritless claims, of course. This is a fraud crime that is substantiated by a significant amount of evidence which we have outlined in our papers.

Your Honor, the defendant has been hiding. To respond

to defense counsel's arguments: He hides behind his family, by keeping entities and properties not in his name. He hides apparently by saying that the $394,000, just to be clear, was in a safe that was attached to a dressing room in which his 31 suits that have his name hand-stitched into them were there. It is simply not credible, it is not credible for him to be unaware of $394,000 in United States currency that he didn't disclose to pretrial services.

Your Honor, it's a big planet, and it's a big country. There are places for him to go that would be beyond the reach of China; that are beyond the reach of the United States. But the Court doesn't need to find that. The question is whether there's a risk of flight, the risk that he won't appear in court, and the government has certainly met that burden.

Your Honor, the fact that defense counsel concedes that the $5 million they're offering to put up is not from the defendant means it has no moral suasion on him at all. There is no reason for him not to leave because he wouldn't be concerned about giving up money that wasn't even his to begin with. Your Honor, if this money was clean and unencumbered by both the fraud and the bankruptcy, I would have expected the defense to explain where it's from. I would have expected the defense to explain who their cosigners could be, who would have the unencumbered assets to support a $25 million bond for the defendant and also moral suasion over him.

Your Honor, with respect to armed security, the only other case I'm aware of that happened in this district where it was approved was before Judge Broderick. It was over Southern District's objection. And in that case there were a host of problems that occurred because the incentive structure doesn't work. Armed security took the defendant out to dinner. Armed security ate with the defendant, which is not really a good idea if, you know, an armed security guard eats something and then falls asleep and the defendant can flee. Armed security didn't report violations. It doesn't work. And, fundamentally -- and the Second Circuit has been crystal clear about this -- fundamentally, it is wrong.

What I haven't heard also from the defense, your Honor, is how their conditions can satisfy the very real concerns about the danger to the community and the danger to this judicial process. There are no conditions that satisfy that.

And, your Honor, as we've outlined, and as I've explained earlier, this has been documented by three judges. Three judges have found the defendant to essentially be obstructing, including an extensive opinion that we attached for your Honor to our March 15 submission, in which the bankruptcy judge makes clear that the defendant is causing his supporters to flood the docket or threatened with calamities the court-appointed bankruptcy trustee. None of the conditions

proposed by the defense, none of them, none, can stop that.

Your Honor, the defendant has incredible means and know-how, as the defense concedes. He apparently has access to friends who are willing to front $5 million -- $5 million in cash. He can go where he wants. He has a network of people who will harbor him. He has international travel -- deep international travel experience, the ability to obtain travel documents from multiple different countries, apparently citizenship in multiple different countries. He has places to go. He has people who will help him. He has a reason to flee. And the asylum application, your Honor, the mere charges in this case threaten that. It's true. The asylum application is still pending, but the mere charges in this case threaten the asylum application.

The point is, your Honor, on flight, he's motivated to flee. He has the means and know-how to do it, and there is no condition that can stop that.

On danger, he continues to endanger the public, and that hasn't stopped, and there are no conditions that can stop that.

And on obstruction, your Honor, as three other courts have made clear, the defendant continues to obstruct the judicial process. He will obstruct it in this criminal case too.

There are no conditions, none, there are no conditions

that can stop that.

At the end of the day, this is very straightforward. This is very simple, we submit to the Court, the defendant should be detained because he's a risk of flight, he presents a danger, and he will obstruct.

THE COURT: All right. I'm going to reserve decision.

I'll issue a written decision. The matter is adjourned.

(Adjourned)

EXHIBIT 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

UNITED STATES OF AMERICA, New York, N.Y.

v. 23 Cr. 118 (AT)(KHP)

HO WAN KWOK,

Defendant.

----------x

March 15, 2023
4:55 p.m.

Before:

HON. KATHARINE H. PARKER,

U.S. Magistrate Judge

APPEARANCES

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
BY: RYAN B. FINKEL
JULIANA MURRAY
MICAH FERGENSON
Assistant United States Attorneys

FEDERAL DEFENDERS OF NEW YORK
Attorneys for Defendant
BY: TAMARA L. GIWA

ALSO PRESENT: LILY LAU, Mandarin Interpreter

(Case called)

THE DEPUTY CLERK: Beginning with the government, please make your appearance for the record.

MR. FINKEL: Good afternoon, your Honor. Ryan Finkel, Juliana Murray, Micah Fergenson for the United States. We are joined at counsel table by Geoffrey Mearns, who is a paralegal in our office.

THE DEPUTY CLERK: Counsel for Mr. Kwok, please make your appearance for the record.

MS. GIWA: Federal Defenders of New York by Tamara Giwa appearing today for Mr. Miles Guo. Good afternoon, your Honor.

THE COURT: Good afternoon. And good afternoon Mr. Kwok.

THE DEFENDANT: (In English) Your Honor, good afternoon.

THE COURT: I'm Judge Parker.

Before we get started, Mr. Kwok, I want to make sure that you can understand and hear the interpreter.

THE DEFENDANT: (In English) Yes, your Honor.

THE COURT: The purpose of today's proceeding is to inform you of certain rights that you have, to inform you of the charges against you, to consider whether counsel should be appointed for you, and decide under what conditions, if any, you shall be released pending trial.

Now, can the government provide the date and time of arrest, please?

MR. FINKEL: Yes, your Honor. The defendant was arrested this morning at approximately 6:24 a.m.

THE COURT: And has the government given notice of this proceeding to any victims of the alleged crimes?

MR. FINKEL: Your Honor, we have, given the multitude of thousands of victims in this case, we have posted and disseminated information on the government's website to inform victims of these proceedings and to continue to keep them informed.

THE COURT: Thank you.

Mr. Kwok, I am now going to explain certain constitutional rights that you have. You have the right to remain silent. You are not required to make any statements. Even if you have already made statements to the authorities, you do not need to make any further statements. Anything you do say can be used against you.

You have the right to be released, either conditionally or unconditionally, pending trial, unless I find that there are no conditions that would reasonably assure your presence at future court appearances and the safety of the community. If you are not a U.S. citizen, you have the right to request that a government attorney or a law enforcement official notify a consular officer from your country of origin

that you have been arrested and, in some cases, a treaty or other agreement may require the U.S. government to give that notice, whether you request it or not.

You have the right to be represented by an attorney during all court proceedings, including this one, and during all questioning by the authorities. You have the right to hire your own attorney but if you cannot afford one, I will appoint one to represent you.

Do you understand your rights as I have just explained them?

THE DEFENDANT: Your Honor, I completely understand.

THE COURT: Now, you have been arrested based on charges filed against you in an indictment issued by a grand jury from the Southern District of New York. I am just going to summarize those, the charges against you in a moment, but first I want to talk about appointment of counsel.

Ms. Giwa, you are here today but there is no financial affidavit provided.

MS. GIWA: That's correct, your Honor. Mr. Guo is not eligible for representation by the Federal Defenders' office. I have spoken with his retained counsel, he has retained Josh Klein and Guy Petrillo. Mr. Klein is currently out of New York City, he is returning shortly, and so he asked me to appear today just for today's purposes but the representation will not be ongoing.

THE COURT: So what I am going to do then is appoint you solely for purposes of today's proceeding to act as Mr. Kwok's counsel just for today. OK?

MS. GIWA: Thank you.

THE COURT: So, the indictment against you, Mr. Kwok, charges you with various crimes, I'm going to summarize them now.

Count One charges that you participated in a conspiracy to commit wire fraud, securities fraud, bank fraud, money laundering, and concealment of money laundering, all in violation of Title 18 of the United States Code, Section 371. In brief, this count alleges that from in or about 2018, through in or about March of 2023, you conspired, with others, to defraud victims of more than approximately $1 billion, by soliciting investments in various entities and programs including GTV, G|CLUBS, G|MUSIC, G|FASHION and the Himalaya Exchange, a cryptocurrency exchange or environment, instead of actually investing victims' money, using the money as promised and/or providing the promised benefits, you allegedly took money to enrich yourself, your family and co-conspirators including, by among other things, purchasing extravagant homes, cars, a yacht, among other luxury items. As part of the conspiracy, you allegedly utilized multiple entities, individuals, and bank accounts to launder money and conceal the fraud, and you are alleged to have committed various acts in

furtherance of the conspiracy including by making false statements on social media about what victims' investments would be used for and the nature of the investments.

Counts Two, Four, Six, and Eight all charge you with committing wire fraud in violation of Title 18 of the United States Code, Sections 2 and 1343. Count Two is wire fraud in connection with the GTV private placement; Count Four is wire fraud in connection with the so-called Farm Loan Program; Count Six is wire fraud in connection with G|CLUBS; and Count Eight is wire fraud in connection with the Himalaya Exchange.

Counts Three, Five, and Seven charge you with securities fraud in violation of Title 15 of the United States Code Section 78j(b) and 78ff, 17 CFR 240.10b-5, and United States Code Section 2, and more specifically, Count Three charges you with securities fraud in connection with the GTV private placement, Count Five charges with you securities fraud in connection with the Farm Loan Program, and Count Seven charges you with securities fraud in connection with G|CLUBS.

Count Nine of the indictment charges you with international promotional money laundering in violation of Title 18 of the United States Code Section 1956(a)(2)(A) and 2. In connection with this, you are alleged to have directed and made international transfers of funds into and out of and through the United States with the intent to promote the fraud offenses charged in Counts Two through Eight.

In Count Ten you are charged with international concealment of money laundering in violation of Title 18 of the United States Code Section 1956(a)(2)(B)(2)(i) and Section 2. In connection with this count you are alleged to have conducted international financial transactions into, and out of, and through the United States involving fraud proceeds, including, among other transactions, transactions involving bank accounts held in the names of entities nominally owned by other individuals and by entities not overtly associated with you and the other defendants in order to conceal the ownership, control, and receipt of the proceeds of the fraud and the illegal nature and sources of the proceeds.

In Count Eleven you are charged with engaging in unlawful money transactions in violation of Title 18 of the United States Code, Sections 2 and 1957. It alleges that you engaged and attempted to engage in a monetary transaction in criminally derived property of value of greater than $10,000 that was derived from specified unlawful activity, and you made and/or directed others to make a wire transfer of $100 million derived from the offenses charged in Counts Two and Three to a specified fund.

The indictment also contains forfeiture allegations with respect to the offenses charged in Counts One through Eight of the indictment and it identifies specific property subject to forfeiture. I'm not going to list them all but they

include various deposits at Silvergate Bank, FV Bank, Mercantile Bank International, Manufacturers & Traders Trust Company, U.S. Bank, property in Mahwah, New Jersey, a Bugatti, Lamborghini, a Rolls Royce, a super yacht, and other property.

Ms. Giwa, have you had a chance to review the indictment with Mr. Kwok and does he waive a full public reading?

MS. GIWA: Yes, your Honor. I have reviewed it with him using an interpreter. He waives a reading at this point.

THE COURT: Now, has Judge Torres also referred this for arraignment?

MR. FINKEL: She has, your Honor.

THE COURT: And does Mr. Kwok wish to enter a plea at this time?

MS. GIWA: Your Honor, he enters a plea of not guilty.

THE COURT: A plea of not guilty will be entered and the record should reflect that Mr. Kwok has been arraigned.

Now, before we go any further, I want to remind the government of certain obligations it has pursuant to Federal Rule of Criminal Procedure 5(f) and its obligations under *Brady v. Maryland* and its progeny, to disclose to the defense all information, whether admissible or not, that is favorable to the defendant, material either to guilt or to punishment and known to the government. The government must make good faith efforts to disclose such information to the defense as soon as

reasonably possible after its existence becomes known to the government. The information to be disclosed also includes any information that can be used to impeach the trial testimony of any government witness. The disclosures must be made sufficiently in advance of trial in order for the defendant to make effective use of it at trial.

Now, I remind the government these obligations are continuing and that they apply to information whether you credit it or not, and I further remind you that for these purposes "government" includes federal, state, and local prosecutors and law enforcement officials who have participated in the investigation and prosecution of this matter, and that you have an affirmative obligation to seek from all of these sources all information subject to disclosure. And I further caution the government that if it fails to comply with this order, there will be serious consequences including, without limitation, evidentiary sanctions, dismissal of the charges, and sanctions on any responsible lawyer for the government.

Does the government understand these obligations and confirm that it has and will fulfill them?

MR. FINKEL: Yes, your Honor. The government understands its obligations and we will comply with them.

THE COURT: Thank you.

After these proceedings I will enter a written order confirming the government's *Brady* obligations.

Now, what is the government's position as to bail, detention, or release?

MR. FINKEL: Your Honor, the government seeks detention in this case as has been laid out in the memorandum that has been sent to your Honor. It is my understanding that the defense is, for the moment, consenting without prejudice to future application.

THE COURT: Ms. Giwa, is the defendant making a bail application today?

MS. GIWA: No, your Honor, not today. Mr. Klein, Mr. Guo's retained counsel, anticipates providing to the Court a robust bail package but for today Mr. Guo is consenting to detention.

THE COURT: All right. So the defendant will be detained without prejudice to a future bail application.

Is there anything further from the government on this matter?

MR. FINKEL: Yes, your Honor. Just a few points.

First, I would just like to note for the record that the government has made consular notification to the government of China. I also want to note that Judge Torres has set an initial pretrial conference for April 4th at 11:30 a.m., and the government would move to exclude time between now and April 4th, given that the defendant is retaining counsel, so the government can produce discovery to the defendant, and

apparently deal with bail motions.

THE COURT: What is defendant's position with respect to exclusion of time?

MS. GIWA: No objection, your Honor.

THE COURT: Time will be excluded through April 4th in the interest of justice.

Anything further from the government?

MR. FINKEL: No, your Honor. Thank you.

THE COURT: Anything further from defense?

MS. GIWA: Nothing further. Thank you.

THE COURT: Thank you. We are adjourned.

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EXHIBIT 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

UNITED STATES OF AMERICA

v.

HO WAN KWOK,
a/k/a "Miles Guo,"
a/k/a "Miles Kwok,"
a/k/a "Guo Wengui,"
a/k/a "Brother Seven,"
a/k/a "The Principal,"

KIN MING JE,
a/k/a "William Je," and

YANPING WANG,
a/k/a "Yvette,"

Defendants.

INDICTMENT

S1 23 Cr. 118 (AT)

COUNT ONE
(Conspiracy to Commit Wire Fraud, Securities Fraud, Bank Fraud, and Money Laundering)

The Grand Jury charges:

Overview

1. From at least in or about 2018 through at least in or about March 2023, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and others known and unknown, conspired to defraud thousands of victims of more than approximately $1 billion, including victims located in the Southern District of New York. KWOK, JE, WANG, and their co-conspirators operated through a series of complex fraudulent and fictitious businesses and investment opportunities that connected dozens of interrelated

entities, which allowed the defendants and their co-conspirators to solicit, launder, and misappropriate victim funds.

2. HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and their co-conspirators, took advantage of KWOK's prolific online presence and hundreds of thousands of online followers to solicit investments in various entities and programs by promising outsized financial returns and other benefits. The entities and programs used in the scheme included those known as GTV, G|CLUBS, G|MUSIC, G|Fashion, and the Himalaya Exchange, among others. In truth and in fact, and as KWOK, JE, and WANG well knew, the entities were instrumentalities that KWOK, JE, and WANG created and used to perpetrate their fraud and exploit KWOK's followers. The scheme allowed KWOK, JE, and WANG to enrich themselves, their family members, and their co-conspirators, and to fund KWOK's extravagant lifestyle.

3. As part of the scheme, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and their co-conspirators, laundered hundreds of millions of dollars of fraud proceeds. To conceal the illegal source of the funds, KWOK, JE, and WANG transferred, and directed the transfer of, money into and through more than approximately 500 accounts held in the names of at least 80 different entities or individuals. Hundreds of millions of dollars of the fraudulent scheme's proceeds were transferred, either directly or indirectly, to bank accounts in the United States, Bahamas, and United Arab Emirates ("UAE"), among other places, and held in the name of companies owned or otherwise controlled by JE.

4. HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, used more than approximately $300 million of the fraudulent scheme's proceeds for their and their families' benefit. For example, KWOK used fraudulently-obtained victim money to purchase, fund, or finance a $26.5 million purchase of an approximately 50,000-square-foot mansion in New Jersey for KWOK and his family; luxury vehicles, including an approximately $3.5 million Ferrari for one of KWOK's close family members ("Relative-1"); an approximately $37 million luxury yacht that was used by KWOK and his family and purchased in the name of one of KWOK's close family members ("Relative-2"); a piano valued at approximately $140,000; an approximately $36,000 mattress; and a $100 million investment in a high-risk hedge fund for the ultimate benefit of Relative-1, among other things. For his part, among other things, JE transferred at least $10 million of the fraud proceeds into his and his spouse's personal bank accounts.

5. HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and their co-conspirators, operated the scheme for years, and continued to do so at least through at least March 2023. They did so, among other things, by continually adapting the scheme's means and methods to evade the enforcement of investor-protection, anti-money laundering, and bankruptcy laws in the United States, and by retaliating against individual victims who complained or demanded the return of invested funds.

Relevant Persons and Entities

6. At all relevant times, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," the defendant, was the leader of, and directed, the scheme.

a. KWOK is an exiled Chinese businessman who fled to the United States in or about 2015 and purchased a penthouse apartment at a New York City hotel for approximately $67.5 million. Starting at least in or about 2017, KWOK, who then purported to be a billionaire, garnered a substantial online following. KWOK granted numerous media interviews and posted on social media, claiming to advance a movement against the Chinese Communist Party.

b. In or about 2018, KWOK founded two purported nonprofit organizations, namely, the Rule of Law Foundation and the Rule of Law Society. The Rule of Law Society's website lists KWOK as its "founder, a promot[e]r, and a spokesperson." Both organizations feature photographs of KWOK on their websites. KWOK used the nonprofit organizations to amass followers who were aligned with his purported campaign against the Chinese Communist Party and who were also inclined to believe KWOK's statements regarding investment and money-making opportunities. In truth and in fact, and as KWOK well knew, he and others provided false and materially misleading information to promote these "opportunities" and to defraud KWOK's followers and other victims.

7. At all relevant times, KIN MING JE, a/k/a "William Je," the defendant, was a dual citizen of Hong Kong and the United Kingdom who principally resided in the United Kingdom, while traveling to the United States and elsewhere. JE owned and operated numerous companies and investment vehicles central to the scheme and served as its financial architect and key money launderer.

8. At all relevant times, YANPING WANG, a/k/a "Yvette," the defendant, was a citizen of China who principally resided in New York, New York and has had a close relationship with HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," the defendant. In particular, WANG has worked for KWOK and KWOK's family for several years, since at least in or about 2018, and has operated as a "chief of staff" for KWOK. In that capacity, WANG has held titles in a variety of entities that were instrumentalities of the fraud described herein. For example, WANG has served as the President, Treasurer, and Secretary of entities that purportedly managed KWOK's money.

9. At certain times relevant to this Indictment, Saraca Media Group, Inc. ("Saraca") was a corporation based in New York, New York. Relative-1 was its ultimate beneficial owner.

10. At certain times relevant to this Indictment, GTV Media Group, Inc. ("GTV") was a purported news-focused social media platform based in New York, New York. GTV was functionally owned and controlled by HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," the defendant, although KWOK held no formal position or title at GTV. KIN MING JE, a/k/a "William Je," the defendant, likewise held no formal position or title at GTV, but in fact exercised control over its finances. Saraca was the parent company of GTV. YANPING WANG, a/k/a "Yvette," the defendant, was an "Executive Director" of GTV.

11. At certain times relevant to this Indictment, G Club Operations, LLC ("G|CLUBS") was a purported membership organization based in Puerto Rico and in New York, New York. G|CLUBS was functionally owned and controlled by HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," the defendant, although KWOK held no formal position or title at G|CLUBS. KIN MING JE, a/k/a "William Je,"

the defendant, likewise held no formal position or title at G|CLUBS, but in fact exercised control over its finances. .

12. At certain times relevant to this Indictment, the "Himalaya Exchange" was a purported cryptocurrency "ecosystem" that KIN MING JE, a/k/a "William Je," the defendant, founded and operated through various entities he owned, which were based abroad. Entities functionally owned and controlled by HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," the defendant, such as G|CLUBS and G|Fashion, had purported business relationships with the Himalaya Exchange. KWOK promoted the Himalaya Exchange and claimed to be the designer of its purported cryptocurrency, although KWOK held no formal position or title at the Himalaya Exchange.

The Fraud

The GTV Private Placement

13. Between in or about April 2020 and in or about June 2020, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and others known and unknown, fraudulently obtained more than $400 million in victim funds through an illegal private stock offering related to GTV (the "GTV Private Placement").

a. On or about April 21, 2020, KWOK posted, and caused to be posted, a video on social media announcing the unregistered offering of GTV common stock via a private placement. In that video, KWOK described, in substance and in part, the investment terms for the GTV Private Placement, and directed people to contact him, via a mobile messaging application, with any questions about the GTV Private Placement. The video and GTV Private Placement

materials—including the written "Confidential Information Memorandum" (the "PPM"), Subscription Agreement, and Investment Procedure Guidelines—were transmitted to thousands of potential investors, including those in the Southern District of New York, via mobile messaging applications, social media, and text messages.

b. The PPM promoted GTV as the "first ever platform which will combine the power of citizen journalism and social news with state-of-the-art technology, big data, artificial intelligence, block-chain technology and real-time interactive communication."

c. According to the PPM's metadata, JE was the "author" of the PPM. The PPM disclosed the terms of the GTV Private Placement and identified KWOK as GTV's "Sponsor and Adviser." According to the PPM, among other GTV materials, neither KWOK nor JE held any formal management position with GTV. YANPING WANG, a/k/a "Yvette," the defendant, was identified in the PPM as an "Executive Director" of GTV.

d. The PPM also contained the following representations, in substance and in part, among others:

i. The GTV Private Placement was for investors who were "interested in evaluating an opportunity to invest capital into GTV;"

ii. GTV planned to use the proceeds raised from the GTV Private Placement "to expand and strengthen the business;" and

iii. The PPM included a chart itemizing the "contemplated use of proceeds" raised from the GTV Private Placement:

Description	Percentage of Proceeds
Acquisition of companies to strengthen and grow GTV	Approximate 70%
Upgrade of GTV technology and security	Approximate 10%
Marketing	Approximate 8%
Working capital	Approximate 7%
Other	Approximate 5%
Total	100%

e. Between on or about April 20, 2020 and on or about June 2, 2020, approximately $452 million worth of GTV common stock was purportedly sold to more than 5,500 investors located in the United States, including in the Southern District of New York, and abroad. Investors participated in the GTV Private Placement based, in part, on the belief that their money would be invested into GTV to develop and grow that business, as the PPM promised.

f. The vast majority of the proceeds derived from investors in the GTV Private Placement were not used to develop and grow the GTV business, but instead were deposited directly into bank accounts held in the name of Saraca, GTV's parent company, which is beneficially owned by Relative-1.

g. The GTV Private Placement was not made pursuant to a registration statement filed with the U.S. Securities and Exchange Commission ("SEC"). Rather, the offering was purportedly made pursuant to SEC regulations that permit the sale of unregistered securities subject to limitations on the type of investors to whom the securities are offered and the manner in which their investments may be solicited. To evade these limitations, however, KWOK, and others

under his control, used at least one intermediary entity to purchase GTV stock on behalf of pools of investors who did not qualify to participate in the GTV Private Placement.

h. In or about early June 2020, and only days after the GTV Private Placement closed, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and their co-conspirators, misappropriated approximately $100 million raised from investors in the GTV Private Placement and directed that those funds be placed with a high-risk hedge fund ("Fund-1") for the benefit of Saraca and its ultimate beneficial owner, Relative-1. This transaction was contrary to the PPM's representations to prospective GTV investors about how investments in GTV would be used. Indeed, the $100 million investment into Fund-1 was not made for the benefit of GTV, but rather for the benefit of Saraca. The victims who supplied the $100 million invested into Fund-1 did not own any shares of Saraca. Ultimately, the investment into Fund-1 lost approximately $30 million in value.

i. After directing $100 million of GTV victim funds into Fund-1, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," the defendant, continued to promote GTV using false and misleading representations.

The Farm Loan Program

14. Beginning in or about June 2020—the same month that HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, and their co-conspirators misappropriated money from the GTV Private Placement for the benefit of Saraca and Relative-1—KWOK, JE, and their co-conspirators fraudulently obtained more than approximately

$150 million in victim funds through the "Himalaya Farm Alliance." The Himalaya Farm Alliance, which KWOK organized and promoted, was a collective of informal groups (each known as a "Farm") located in various cities around the world. KWOK, JE, and others working on their behalf and at their direction, obtained these funds by making further misrepresentations to the investors in the GTV Private Placement and fraudulently soliciting further investments, this time in the form of "loans" to a Farm, and promising that such loans would be convertible into GTV common stock at a conversion rate of one share per dollar loaned (the "Farm Loan Program").

a. Starting in or about June 2020, domestic banks that held accounts used to process the funds raised through the GTV Private Placement began to freeze and close GTV-associated bank accounts because, among other reasons, the accounts had received dozens of large incoming wire transfers, some of which referenced an unregistered stock offering.

b. These bank account closures frustrated the ability of KWOK, JE, and their co-conspirators to collect proceeds from victims seeking to invest in GTV.

c. On or about July 22, 2020, in a video distributed via social media, KWOK promoted the Farm Loan Program. According to KWOK and those working on his behalf, individuals seeking to invest (or reinvest) in GTV could participate in the Farm Loan Program.

d. After launching the Farm Loan Program, KWOK continued to promote GTV and to falsely represent the value of GTV. For example, on or about August 2, 2020, in a video distributed via social media, KWOK falsely stated, in substance and part, "How much is GTV? . . . a market value of 2 billion US dollars."[1] In truth and in fact, and as KWOK well knew, GTV's market value was far less because, among other things, GTV was a new business that generated no revenue.

[1] All statements attributed herein to KWOK have been translated from Mandarin to English, unless otherwise noted.

e. Thousands of victims "loaned" money to the Farms by sending money to bank accounts controlled by the Farms (and not GTV). According to the "Loan Agreements," which the Farms frequently did not countersign, these funds were to be used for a Farm's "general working capital purposes."

f. KWOK and JE misappropriated funds that were raised through the Farm Loan Program. For example:

i. Approximately $20 million was transferred to Relative-1, approximately $950,000 of which was used to pay for flight crew services on a private jet;

ii. Approximately $5 million was transferred to an entity owned by KWOK's spouse;

iii. Approximately $2.3 million was used to cover maintenance expenses associated with an approximately 145-foot luxury yacht worth approximately $37 million, nominally owned by Relative-2 and used by KWOK; and

iv. Approximately $10 million was transferred to personal bank accounts in the name of JE and/or JE's spouse.

G|CLUBS

15. While making misrepresentations regarding the Farm Loan Program, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, and others known and unknown, fraudulently induced KWOK's followers to transfer additional funds to a purported online membership club called G|CLUBS. From at least in or about October 2020 through at least

in or about March 2023, KWOK, JE, and others known and unknown, fraudulently obtained more than approximately $250 million in victim funds through G|CLUBS.

a. Starting at least on or about June 20, 2020, in a video distributed via social media, KWOK promoted and encouraged individuals to purchase what KWOK referred to as a "G Club . . . membership card."

b. Formally launched in or about October 2020, G|CLUBS claimed, on its website, to be "an exclusive, high-end membership program offering a full spectrum of services" and "a gateway to carefully curated world-class products, services and experiences."

c. To join G|CLUBS, a member was required to make a one-time payment to purchase a "membership," in addition to an annual membership fee. The cost of the membership varied based on the membership tier selected by the prospective member: Tier 5 Membership cost $50,000; Tier 4 Membership cost $40,000; Tier 3 Membership cost $30,000; Tier 2 Membership cost $20,000; and Tier 1 Membership cost $10,000.

d. On or about July 5, 2021, in a video distributed via social media, KWOK stated, in substance and in part, that there were "25,000 [G|CLUBS] member[s] . . . $100 million dollars, the cash [in] the bank account. Then we have the 111 million . . . [who] want to join." By contrast, G|CLUBS internal documents reflected approximately 5,900 active members as of in or about August 2021.

e. In truth and in fact, and as KWOK and JE well knew, G|CLUBS provided nothing close to "a full spectrum of services" and "experiences" to its members. Despite collecting hundreds of millions of dollars in purported membership fees, G|CLUBS maintained a relatively small number of employees and provided its members few to no discernable membership benefits. Indeed, G|CLUBS did not even make good on prizes it offered members for participating in

contests. On or about February 14, 2021, G|CLUBS held a webcast and sweepstakes during which members were promised luxury prizes. On at least one occasion, instead of providing a BMW to a member who purportedly won a sweepstakes, G|CLUBS claimed to the member that the member had requested that the value of the BMW be applied toward an upgrade from a Tier 1 G|CLUBS Membership to a Tier 4 G|CLUBS Membership and partially credited toward annual membership fees for the next three years. As of on or about March 8, 2021—months after G|CLUBS launched and began to collect "membership" fees—G|CLUBS did not have a business plan or a board of directors.

f. KWOK and JE also used G|CLUBS as a mechanism to continue fraudulent private placement offerings. KWOK, and others known and unknown, told KWOK's online followers that their purchase of G|CLUBS memberships would entitle them to stock in KWOK-affiliated entities, such as GTV and G|Fashion.

i. In a conversation regarding G|CLUBS membership funds on or about May 4, 2021, JE stated, in substance and in part, that "first of all, [prospective members] are buying the G|CLUBS membership, but they are expecting they would probably receive some shares, you know, on, on, on the future GTV, I think this is their expectation."

ii. On or about July 30, 2021, KWOK stated in a video distributed via social media, in substance and in part, "Some of the comrades in arms asked, '[w]ill I still get a free stock offer when I buy a G|CLUBS membership?' 100%. Because I said that I have to promise that anyone who buys G-Club membership before September 17 must be allotted shares, which is exactly the same. Because we said that anyone can choose whether to use your money to buy G-Club before September 17, G-Club and the stock shares. You'll get both."

g. KWOK, JE, and others known and unknown, asked investors to purchase multiple memberships in G|CLUBS, enabling KWOK and JE to increase the amount of money solicited. In this regard, the G|CLUBS website stated, in substance and in part, that members with multiple memberships would "receive additional benefits" when, in truth and in fact, and as KWOK and JE well knew, multiple memberships did not provide members with additional benefits.

16. All told, investors purchased hundreds of millions of dollars' worth of G|CLUBS memberships. However, most of this money did not fund the business of G|CLUBS. Rather, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, and others known and unknown, misappropriated a substantial portion of the funds victims had paid G|CLUBS for "memberships," using, among other things, a complex web of entities and bank accounts to do so. For example:

a. G|CLUBS funds, which had been funneled through bank accounts in other entities' names, were used to pay personal expenses for KWOK and his family, including luxury purchases of an approximately $2.6 million yacht and luxury automobiles that together cost more than $5 million.

b. In or about November 2021, JE directed approximately $26.5 million of G|CLUBS funds, which had been funneled through bank accounts in other entities' names, toward the purchase of KWOK's 50,000 square foot New Jersey mansion.

c. JE directed the transfer of an additional $13 million of G|CLUBS membership payments to an escrow account. The funds were subsequently used to pay for extravagant renovations to KWOK's New Jersey mansion, including to a wing for Relative-1 and

to a wing for Relative-2, and to purchase various furniture and decorative items including, among other items, Chinese and Persian rugs worth approximately $978,000, a $62,000 television, and a $53,000 fireplace log cradle holder.

d. On or about August 5, 2021, JE directed the transfer of approximately $1.1 million consisting of G|CLUBS membership payments into a bank account that JE controlled.

e. G|CLUBS used membership fees to purchase luxury automobiles, including a custom-built Bugatti sports car for approximately $4.4 million. While the car's signed purchase agreement listed G|CLUBS as the customer, the initial specifications documentation for the custom-built car named Relative-1 as the customer. Relative-1 had no official position with G|CLUBS.

The Himalaya Exchange

17. From at least in or about April 2021 through at least in or about March 2023, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, and others known and unknown, fraudulently obtained more than approximately $262 million in victim funds through the Himalaya Exchange, a purported cryptocurrency "ecosystem" accessible on the internet. The Himalaya Exchange included a purported stablecoin called the Himalaya Dollar ("HDO" or "H Dollar") and a trading coin called Himalaya Coin ("HCN" or "H Coin"). The Himalaya Exchange claimed that the "stablecoin" was a digital asset with a fixed 1-to-$1 value backed by reserves, and that the "trading coin" was a cryptocurrency with valuation based on supply and demand. JE was the founder and Chairman of the Himalaya Exchange.

18. In videos distributed via social media, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," the defendant,

trumpeted the prospects and valuation of the Himalaya Exchange and both HCN and HDO, which he publicly described as cryptocurrencies. For example, in a video posted on the Internet on or about October 20, 2021, KWOK falsely stated the following, among other things, and in substance and in part:

a. "I am talking about your H Coins, 'Brother Seven' [*i.e.*, KWOK] designed it . . . .[I]t has the attribute of currency, why? It has 20% gold. Awesome[.] [I]t was born as currency on the first day, so it has value and it is linked to gold . . . clear gold directly. No matter how much it raises, 20% will turn into gold."

b. "If the H Coin is worthless, [the issuer of H coin] can sell all 20% of the gold, exchange it to you, and become your money. Or take all the value of 20% gold and ask everyone to unify it and make it yours."

c. "If anyone loses money, I can say that I will compensate 100%. I give you 100%. Whoever loses money, I will bear it."

d. "I can sell the H Coin in the market in one minute and get it back to my H Dollar, and back to your fiat money unit. . . . [A]nd you can buy anything immediately."

19. The initial coin offering of HCN and HDO occurred on or about November 1, 2021. HCN began trading at 10 cents and, within approximately two weeks, the Himalaya Exchange website claimed that each HCN purportedly was worth approximately 27 HDO (*i.e.*, $27), which represented a 26,900% increase in value. That is, approximately two weeks after the initial coin offering, the Himalaya Exchange website indicated that HCN purportedly had an approximately $27 billion valuation.

20. At the time of the Himalaya Exchange launch, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," the

defendant, marketed HCN to his online followers and others. For example, on or about November 1, 2021—the day of the initial coin offering—KWOK released an official music video for an original song called "HCoin To the Moon" via social media. The phrase "to the moon" is popularly associated with cryptocurrencies and implies a sharp increase in value. The music video depicted KWOK in various luxurious locations and depicted imagery of gold and wealth.

21. At times, including following the Himalaya Exchange launch, KIN MING JE, a/k/a "William Je," the defendant, misleadingly marketed the Himalaya Exchange. For example, in or about June 2022, JE attempted to create the impression that a €3,561,127 purchase of a Ferrari (the "Ferrari") from a particular auction house was completed with HDO. JE stated, in substance and in part, that he was "extremely pleased that [a] buyer decided to purchase [a] world-class car using HDO." Contrary to JE's claim, the Ferrari was not purchased using HDO. In truth and in fact, and as JE well knew, a Himalaya Exchange employee sent the auction house an international bank wire to cover the cost of the Ferrari, while also processing a corresponding "transaction" on the Himalaya Exchange to create the false appearance that the purchase had taken place using HDO. JE's statement was also misleading in that, among other things, the unidentified "buyer" of the Ferrari was, in fact, Relative-1.

22. Contrary to representations of HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, and others known and unknown, HCN and HDO could not be traded anywhere other than (purportedly) on the Himalaya Exchange. Moreover, unlike cryptocurrencies, HCN could not be traded for, or converted into, other currencies. HCN purportedly could be traded for only HDO (and only on the Himalaya Exchange), and HDO purportedly only could be converted to or from fiat currency (and only on the Himalaya Exchange).

a. Indeed, the HDO and HCN Whitepapers, available on the Himalaya Exchange website, provided in fine print that, contrary to KWOK's representations, HCN and HDO were not cryptocurrencies. Rather, according to the HCN Whitepaper, the "operation of the Himalaya Exchange and associated applications and infrastructure will be facilitated through the use of 'Credits.'" Those credits (i) could "only be used on the Himalaya Exchange or within the Himalaya Ecosystem," and (ii) did "not carry any right to require their exchange for fiat currency or crypto-assets." Moreover, while Himalaya Exchange members could request to exchange their "HDO" credits for an equivalent payment in U.S. dollars, the HDO Whitepaper stated that the Himalaya Exchange had the "discretion" to deny any such request.

23. In or about April 2022, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, arranged for the transfer of approximately $37 million in Himalaya Exchange funds from a Himalaya Exchange bank account to a particular escrow account. The $37 million was structured as a purported "loan" to cover the cost of a luxury yacht that KWOK had previously purchased and used, which yacht was then-owned by an entity held in the name of Relative-2.

Government Seizure of Fraud Proceeds

24. On or about September 20, 2022 and September 21, 2022, U.S. authorities served judicially-authorized seizure warrants on several domestic banks, and subsequently seized approximately $335 million of proceeds from bank accounts held in the names of Himalaya Exchange entities and other entities associated with HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants. Following the September 2022 judicially authorized

seizures, JE attempted to transfer approximately $46 million from domestic bank accounts associated with the Himalaya Exchange, which had not yet been seized by the United States, to a bank account in the UAE that JE controlled.

a. Within approximately two days of the first judicially authorized seizures of Himalaya Exchange-related funds, on or about September 22, 2022, JE contacted the management of a domestic bank that held Himalaya Exchange bank accounts. JE sought to implement a wire transfer, which he and a Himalaya Exchange executive claimed to the domestic bank was needed to effectuate a "redemption" from HDO to U.S. dollars for an unnamed "VIP" (*i.e.*, very important client of the Himalaya Exchange).

b. In subsequent communications with the domestic bank, JE revealed that the VIP was, in fact, JE himself. JE provided the domestic bank with documents reflecting two purported HCN sales by JE on or about September 22, 2022—totaling 46 million HDO, which JE was attempting to "convert" into $46 million. JE twice emphasized to the domestic bank's management, in substance and in part, that the $46 million transfer needed to happen "today or it is meaningless."

25. On or about October 16, 2022, pursuant to a judicially authorized warrant, U.S. authorities seized an additional approximately $274 million of proceeds from several Himalaya Exchange and G|CLUBS accounts at the domestic bank from which JE requested the $46 million transfer.

a. As a result of the judicially-authorized seizures, U.S. authorities seized more than approximately $634 million of fraud proceeds, including approximately $278 million from bank accounts held in the names of the Himalaya Exchange entities, including accounts that purported to hold its HDO cash reserves.

b. Following the seizures, the Himalaya Exchange website continued to represent that HDO was backed by a "Reserve consisting of USD and cash-equivalent assets" when, in truth and in fact, it was not.

c. Despite the seizure of the Himalaya Exchange's cash reserves, the purported price of HCN had not suddenly and sharply declined through the date of this Indictment.

STATUTORY ALLEGATIONS

26. From at least in or about 2018 up to and including at least in or about March 2023, in the Southern District of New York and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed together and with each other to commit offenses against the United States, to wit, (1) wire fraud, in violation of Title 18, United States Code, Section 1343; (2) securities fraud, in violation of Title 15, United States Code, Sections 78j(b) & 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5; (3) bank fraud, in violation of Title 18, United States Code, Section 1344; (4) international promotional money laundering, in violation of Title 18, United States Code, Section 1956(a)(2)(A); and (5) international concealment money laundering, in violation of Title 18, United States Code Section 1956(a)(2)(B)(i).

27. It was a part and an object of the conspiracy that HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and others known and unknown, knowingly having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent

pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343, to wit, KWOK, JE, and WANG agreed to obtain victims' money by causing materially false information and misrepresentations to be transmitted over interstate wires, in connection with the GTV Private Placement, the Farm Loan Program, G|CLUBS, and the Himalaya Exchange.

28. It was further a part and an object of the conspiracy that HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and others known and unknown, willfully and knowingly, directly and indirectly, by use of a means and instrumentality of interstate commerce and of the mails, and of a facility of a national securities exchange, used and employed, in connection with the purchase and sale of a security registered on a national securities exchange and any security not so registered, a manipulative and deceptive device and contrivance, in violation of Title 17, Code of Federal Regulations, Section 240.l0b-5, by (a) employing a device, scheme and artifice to defraud; (b) making an untrue statement of material fact and omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading; and (c) engaging in an act, practice and course of business which operated and would operate as a fraud and deceit upon a person, to wit, KWOK, JE, and WANG agreed to fraudulently induce investors to participate in the GTV Private Placement, the Farm Loan Program, and G|CLUBS by providing materially false and misleading information and representations in connection with purported shares of GTV common stock and purported companies affiliated with GTV.

29. It was further a part and an object of the conspiracy that HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and others known and unknown, knowingly would and did execute and attempt to execute a scheme and artifice to defraud a financial institution, as defined in Title 18, United States Code, Section 20, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such a financial institution, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344, to wit, KWOK, JE,,and WANG agreed to participate in a scheme to mislead U.S. financial institutions through false and fraudulent pretenses, representations, and documents, in connection with the GTV Private Placement, the Farm Loan Program, G|CLUBS, and the Himalaya Exchange, in order to obtain money of, or under the custody and control of, at least one financial institution.

30. It was further a part and an object of the conspiracy that HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and others known and unknown, would and did transport, transmit, and transfer, and attempt to transport, transmit, and transfer, a monetary instrument and funds from a place in the United States to and through a place outside the United States, and to a place in the United States from and through a place outside the United States, with the intent to promote the carrying on specified unlawful activity, to wit, the offenses alleged in Counts Two through Eight of this Indictment in violation of Title 18, United States Code, Section 1956(a)(2)(A)(i).

31. It was further a part and an object of the conspiracy that HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and others known and unknown, would and did transport, transmit, and transfer, and attempted to transport, transmit, and transfer, a monetary instrument and funds from a place in the United States to and through a place outside the United States, and to a place in the United States from and through a place outside the United States, knowing that the monetary instrument and funds involved in the transportation, transmission, and transfer represent the proceeds of some form of unlawful activity, and knowing that such transportation, transmission, and transfer is designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, to wit, the offenses alleged in Counts Two through Eight of this Indictment, in violation of Title 18, United States Code, Section 1956(a)(2)(B)(i).

Overt Acts

32. In furtherance of the conspiracy and to effect its illegal objects, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about April 21, 2020, KWOK posted, and caused to be posted, a video on social media announcing the unregistered offering of GTV stock via the GTV Private Placement.

b. On or about June 5, 2020, WANG, while located in the Southern District of New York, authorized a wire transfer of $100 million from Saraca to Fund-1.

c. On or about July 22, 2020, in a video distributed via social media, KWOK promoted the Farm Loan Program.

d. On or about August 2, 2020, in a video distributed via social media, KWOK stated, in substance and part, "How much is GTV? . . . a market value of 2 billion US dollars."

e. On or about May 28, 2021, JE transferred approximately $13 million from a bank account in the UAE that JE controlled to a bank account held by an entity (owned by Relative-2) at a particular bank in New York, New York.

f. On or about July 30, 2021, in a video distributed via social media, KWOK stated, in substance and in part, "Some of the comrades in arms asked, '[w]ill I still get a free stock offer when I buy a G-Clubs membership?' 100%. Because I said that I have to promise that [to] anyone who buys G-Clubs membership before September 17 [they] must be allotted shares, which is exactly the same. Because we said that anyone can choose whether to use your money to buy G-Clubs before September 17, G-Clubs and the stock shares. You'll get both."

g. On or about August 5, 2021, JE directed the transfer of approximately $1.1 million consisting of funds victims had sent to G|CLUBS in exchange for "memberships" to a bank account that JE controlled.

h. On or about October 20, 2021, in a video distributed via social media, KWOK stated, in substance and in part, that KWOK "designed" HCN, that "[n]o matter how much it raises, 20% will turn into gold," and that "[i]f anyone loses money" on HCN, "I can say that I will compensate 100%."

i. On or about September 22, 2022, JE texted a U.S. bank's management, in substance and in part, that a $46 million transfer to a JE-controlled bank account in the UAE needed to happen "today or it is meaningless."

(Title 18, United States Code, Section 371.)

COUNT TWO
(Wire Fraud – GTV Private Placement)

The Grand Jury further charges:

33. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

34. From at least in or about April 2020 up to and including at least in or about March 2021, in the Southern District of New York and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, knowingly having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, to wit, KWOK, JE, and WANG conducted the GTV Private Placement to sell GTV stock and fraudulently obtain money from victims through false statements and misrepresentations, which scheme was furthered through electronic communications and monetary transfers to and from the Southern District of New York and elsewhere.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT THREE
(Securities Fraud – GTV Private Placement)

The Grand Jury further charges:

35. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

36. From at least in or about April 2020 up to and including at least in or about March 2021, in the Southern District of New York, and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, willfully and knowingly, directly and indirectly, by use of a means and instrumentality of interstate commerce and of the mails, and of a facility of a national securities exchange, used and employed, in connection with the purchase and sale of a security registered on a national securities exchange and any security not so registered, a manipulative and deceptive device and contrivance, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing a device, scheme and artifice to defraud; (b) making an untrue statement of material fact and omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading; and (c) engaging in an act, practice and course of business which operated and would operate as a fraud and deceit upon a person, to wit, KWOK, JE, and WANG conducted the GTV Private Placement to sell GTV stock and obtain money from victims through false statements and misrepresentations, which scheme was furthered through electronic communications and monetary transfers to and from the Southern District of New York and elsewhere.

(Title 15, United States Code, Sections 78j(b) & 78ff; Title 17, Code of Federal Regulations, Section 240.10b-5; and Title 18, United States Code, Section 2.)

COUNT FOUR
(Wire Fraud – Farm Loan Program)

The Grand Jury further charges:

37. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

38. From at least in or about June 2020 up to and including at least in or about March 2023, in the Southern District of New York and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, knowingly having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, to wit, KWOK and JE conducted the Farm Loan Program to fraudulently obtain money from victims through false statements and misrepresentations, which scheme was furthered through electronic communications and monetary transfers to and from the Southern District of New York and elsewhere.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT FIVE
(Securities Fraud – Farm Loan Program)

The Grand Jury further charges:

39. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

40. From at least in or about June 2020 up to and including at least in or about March 2023, in the Southern District of New York, and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, willfully and knowingly, directly and indirectly, by use of a means and instrumentality of interstate commerce and of the mails, and of a facility of a national securities exchange, used and employed, in connection with the purchase and sale of a security registered on a national securities exchange and any security not so registered, a manipulative and deceptive device and contrivance, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing a device, scheme and artifice to defraud; (b) making an untrue statement of material fact and omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading; and (c) engaging in an act, practice and course of business which operated and would operate as a fraud and deceit upon a person, to wit, KWOK and JE conducted the Farm Loan Program to obtain money from victims through false statements and misrepresentations, including regarding, among other things, the value of GTV, which scheme was furthered through electronic communications and monetary transfers to and from the Southern District of New York and elsewhere.

(Title 15, United States Code, Sections 78j(b) & 78ff; Title 17, Code of Federal Regulations, Section 240.10b-5; and Title 18, United States Code, Section 2.)

COUNT SIX
(Wire Fraud – G|CLUBS)

The Grand Jury further charges:

41. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

42. From at least in or about June 2020 up to and including at least in or about March 2023, in the Southern District of New York and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, knowingly having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, to wit, KWOK and JE promoted and marketed G|CLUBS to fraudulently obtain money from victims through false statements and misrepresentations, which scheme was furthered through electronic communications and monetary transfers to and from the Southern District of New York and elsewhere.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT SEVEN
(Securities Fraud – G|CLUBS)

The Grand Jury further charges:

43. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

44. From at least in or about June 2020 up to and including at least in or about March 2021, in the Southern District of New York, and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, willfully and knowingly, directly and indirectly, by use of a means and instrumentality of interstate commerce and of the mails, and of a facility of a national securities exchange, used and employed, in connection with the purchase and sale of a

security registered on a national securities exchange and any security not so registered, a manipulative and deceptive device and contrivance, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing a device, scheme and artifice to defraud; (b) making an untrue statement of material fact and omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading; and (c) engaging in an act, practice and course of business which operated and would operate as a fraud and deceit upon a person, to wit, KWOK and JE promoted and marketed G|CLUBS to obtain money from victims through false statements and misrepresentations, including regarding, among other things, the value of GTV, which scheme was furthered through electronic communications and monetary transfers to and from the Southern District of New York and elsewhere.

(Title 15, United States Code, Sections 78j(b) & 78ff; Title 17, Code of Federal Regulations, Section 240.10b-5; and Title 18, United States Code, Section 2.)

COUNT EIGHT
(Wire Fraud – The Himalaya Exchange)

The Grand Jury further charges:

45. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

46. From at least in or about April 2021 up to and including at least in or about March 2023, in the Southern District of New York and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, knowingly having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings,

signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, to wit, KWOK and JE operated the Himalaya Exchange to fraudulently obtain money from victims through false statements and misrepresentations, which scheme was furthered through electronic communications and monetary transfers to and from the Southern District of New York and elsewhere.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT NINE
(International Promotional Money Laundering)

The Grand Jury further charges:

47. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

48. From at least in or about 2018 up to and including at least in or about March 2023, in the Southern District of New York and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, did transport, transmit, and transfer, and attempt to transport, transmit, and transfer, a monetary instrument and funds from a place in the United States to and through a place outside the United States, and to a place in the United States from and through a place outside the United States, with the intent to promote the carrying on specified unlawful activity, to wit, KWOK and JE directed and made international transfers of funds into, out of, and through the United States, with the intent to promote the fraud offenses in Counts Two through Eight of the Indictment.

(Title 18, United States Code, Sections 1956(a)(2)(A) and 2.)

COUNT TEN
(International Concealment Money Laundering)

The Grand Jury further charges:

49. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

50. From at least in or about 2018 up to and including at least in or about March 2023, in the Southern District of New York and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," and KIN MING JE, a/k/a "William Je," the defendants, did transport, transmit, and transfer, and attempt to transport, transmit, and transfer, a monetary instrument and funds from a place in the United States to and through a place outside the United States, and to a place in the United States from and through a place outside the United States, knowing that the monetary instrument and funds involved in the transportation, transmission, and transfer represented the proceeds of some form of unlawful activity, and knowing that such transportation, transmission, and transfer was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, namely, the fraud offenses alleged in Counts Two through Eight of this Indictment, to wit, KWOK and JE conducted international financial transactions into, and out of, and through the United States involving fraud proceeds, including, among other transactions, transactions involving bank accounts held in the names of entities nominally owned by other individuals and by entities not overtly associated with the defendants, in order to conceal the ownership, control, and/or receipt of the proceeds of the fraud and the illegal nature and source of such proceeds.

(Title 18, United States Code, Sections 1956(a)(2)(B)(i) and 2.)

COUNT ELEVEN
(Unlawful Monetary Transactions)

The Grand Jury further charges:

51. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

52. On or about June 5, 2020, in the Southern District of New York and elsewhere, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, within the United States, knowingly engaged and attempted to engage in a monetary transaction, as defined in Title 18, United States Code, Section 1957(f)(1), in criminally derived property of a value greater than $10,000 that was derived from specified unlawful activity, to wit, KWOK, JE, and WANG made, and directed others to make, a wire transfer of approximately $100 million derived from the offenses charged in Counts Two and Three to Fund-1.

(Title 18, United States Code, Sections 1957 and 2.)

COUNT TWELVE
(Obstruction of Justice)

The Grand Jury further charges:

53. The allegations contained in paragraphs 1 through 25 of this Indictment are repeated and realleged as if fully set forth herein.

54. From at least on or about September 20, 2022 through the date of the filing of this Indictment, in the Southern District of New York and elsewhere, KIN MING JE, a/k/a "William Je," the defendant, corruptly obstructed, influenced, and impeded an official proceeding and attempted so to do, to wit, JE attempted to transfer money to the UAE, beyond the jurisdiction of

the United States, to impede and interfere with a federal grand jury investigation in the Southern District of New York of the offenses alleged in Counts One through Eleven of this Indictment, and proceedings before the United States District Court for the Southern District of New York concerning the seizure and forfeiture of criminally derived proceeds.

(Title 18, United States Code, Sections 1512(c)(2) and 2.)

FORFEITURE ALLEGATIONS

55. As a result of committing the offenses alleged in Counts One through Eight of this Indictment, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28 United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offenses, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses and, and the following specific property:

a. $64,826.87 in United States currency formerly on deposit in Account Number 5090037713 at Silvergate Bank held in the name of "Hamilton Opportunity Fund SPC," seized by the Government on or about September 18, 2022;

b. $75,000,000.00 in United States currency formerly on deposit in Account Number 5090037705 at Silvergate Bank held in the name of "Hamilton Opportunity Fund SPC," seized by the Government on or about September 18, 2022;

c. $467,343.00 in United States currency formerly on deposit in Account Number 5090037754 at Silvergate Bank held in the name of "Hamilton Opportunity Fund SPC," seized by the Government on or about September 18, 2022;

d. $89,992,861.75 in United States currency formerly on deposit in Account Number 5090042770 at Silvergate Bank held in the name of "Hamilton Opportunity Fund SPC," seized by the Government on or about September 18, 2022;

e. $1,683,077.40 in United States currency formerly on deposit in Account Number 5090042762 at Silvergate Bank held in the name of "Hamilton Opportunity Fund SPC," seized by the Government on or about September 18, 2022;

f. $85,899,889.20 in United States currency formerly on deposit in Account Number 5090042853 at Silvergate Bank held in the name of "Hamilton Opportunity Funds SPC," seized by the Government on or about September 18, 2022;

g. $48,230,709.62 in United States currency formerly on deposit in Account Number 5090030288 at Silvergate Bank held in the name of "Hamilton Investment Management" Ltd., seized by the Government on or about September 18, 2022;

h. $1,800,000.00 in United States currency formerly on deposit in Account Number 5090037739 at Silvergate Bank held in the name of "Hamilton Opportunity Fund SPC," seized by the Government on or about September 18, 2022;

i. $85,899,889.20 in United States currency formerly on deposit in Account Number 5090042853 at Silvergate Bank held in the name of "Hamilton Opportunity Funds SPC," seized by the Government on or about September 18, 2022;

j. $4,643,744.70 in United States currency formerly on deposit in Account Number 7801000590 at FV Bank held in the name of "Himalaya International Reserves, Ltd.," seized by the Government on or about September 20, 2022;

k. $14,599,257.25 in United States currency formerly on deposit in Account Number 7801000254 at FV Bank held in the name of "Himalaya International Clearing, Ltd.," seized by the Government on or about September 20, 2022;

l. $11,538,579.87 in United States currency formerly on deposit in Account Number MBI10103-0000 at Mercantile Bank International held in the name of "G Club International Ltd.," seized by the Government on or about October 16, 2022;

m. $10,008,284.04 in United States currency formerly on deposit in Account Number MBI10133-0000 at Mercantile Bank International held in the name of "Himalaya International Clearing Ltd.," seized by the Government between on or about October 16, 2022 and on or about March 10, 2023;

n. $3,090,856.54 in United States currency formerly on deposit in Account Number MBI10137-0000 at Mercantile Bank International held in the name of "Hamilton Capital Holding Ltd.," seized by the Government between on or about October 16, 2022 and on or about March 10, 2023;

o. $272,350,313.76 in United States currency formerly on deposit in Account Number MBI10138-0000 at Mercantile Bank International held in the name of "Himalaya International Reserves Ltd.," seized by the Government between on or about October 16, 2022 and on or about March 10, 2023;

p. $310,594.31 in United States currency formerly on deposit in Account Number MBI10139-0000 at Mercantile Bank International held in the name of "Himalaya

International Financial Group Ltd.," seized by the Government between on or about October 16, 2022 and on or about March 10, 2023;

q. $1,187,278.87 in United States currency formerly on deposit in Account Number MBI10171-0000 at Mercantile Bank International held in the name of "Hamilton Investment Management Ltd.," seized by the Government between on or about October 16, 2022 and on or about March 10, 2023;

r. $43,782.71 in United States currency formerly on deposit in Account Number MBI10172-0000 at Mercantile Bank International held in the name of "G Fashion International Limited," seized by the Government on or about October 16, 2022;

s. $161,809.47 in United States currency formerly on deposit in Account Number MBI10183-0000 at Mercantile Bank International held in the name of "Himalaya Currency Clearing Pty Ltd.," seized by the Government on or about October 16, 2022;

t. $2,745,377.75 in United States currency formerly on deposit in Account Number 9878904409 at Manufacturers & Traders Trust Co. held in the name of "GETTR USA, Inc.," seized by the Government on or about September 18, 2022;

u. $9,899,659.19 in United States currency formerly on deposit in Account Number 157525208185 at US Bank held in the name of "G Fashion," seized by the Government on or about September 18, 2022;

v. All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments, and easements, located at 675 Ramapo Valley Road, Mahwah, New Jersey 07430, Parcel No. 3300021-03-00001-02 and described as Lot Number: 1.02 Block: 21.03 District: 33 City, Municipality, Township: MAHWAH TWP

w. A Bugatti Chiron Super Sport, bearing Vehicle Identification Number VF9SW3V3XNM795047;

x. A Lamborghini Aventador SVJ Roads, bearing Vehicle Identification Number ZHWUN6ZD2MLA10393;

y. A Rolls Royce Phantom EWB, bearing Vehicle Identification Number SCATT8C08MU206445;

z. A 46m 2014 Feadship superyacht "Lady May" (ex Como), bearing IMO Number 112359, MMSI Number 319059500, and Callsign ZGDQ9;

aa. A Bösendorfer 185VC Porsche #49539 piano with custom bench, purchased for approximately $140,938.69;

bb. A Railis Design Iceland Contemporary Poseidon Bed with Nightstands, Ebony Veneer, Brass, Velvet, purchased for approximately $31,413.71;

cc. A Hästens 2000T md mattress, purchased for approximately $36,590.00;

dd. A Hästens 2000T sf mattress, purchased for approximately $36,210.00;

ee. A Wembe watch storage box, purchased for approximately $59,392.91;

ff. A Samsung Q900 Series QN98Q900RBF 98" QLED Smart TV – 8K, purchased for approximately $62,787.54;

gg. A Louis XV Style French Ormolu-Mounted Mahogany Commode by Joseph Émmanuel Zweiner;

hh. A "K'ang Hsi" extension table in etched and patinated pewter and bronze with hand-painted enamel colors by Philip & Kelvin LaVerne, purchased for approximately $180,000.00; and

ii. A "Punto '83" table in stainless steel with mesh tabletop with adjustable height and adjustable petals by Gabriella Crespi, Italy 1982, purchased for approximately $180,000.00.

(a) through (ii), collectively, the "Specific Property."

56. As a result of committing the money laundering offenses alleged in Counts One, Nine, Ten and Eleven of this Indictment, HO WAN KWOK, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal," KIN MING JE, a/k/a "William Je," and YANPING WANG, a/k/a "Yvette," the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), any and all property, real and personal, involved in said offense, or any property traceable to such property, including but not limited to a sum of money in United States currency representing the amount of property involved in said offense and the Specific Property.

Substitute Assets Provision

57. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 981 and 982;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)

FOREPERSON
3/29/23

DAMIAN WILLIAMS
United States Attorney

SUPERSEDING
TRUE BILL, INDICTMENT
(S1)

- RWL HARBINGER
3-29-2023

EXHIBIT 6

U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

March 15, 2023

VIA ECF & Email
Hon. Katharine H. Parker
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: ***United States v. Ho Wan Kwok, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal,"* 23 Cr. 118 (AT)**

Dear Judge Parker:

Ho Wan Kwok, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal" ("Kwok" or the "defendant") is charged with defrauding thousands of victims to invest more than $1 billion into Kwok's extensive, sophisticated, interrelated fraudulent offerings through material misrepresentations. Kwok and his co-conspirators then laundered their fraud proceeds and misappropriated hundreds of millions of dollars of fraud proceeds for their personal use.

As explained below, Kwok, who is not a citizen, presents a serious risk of flight based on the nature of the charges, the significant sentence that he faces, the strong evidence of his guilt, his substantial financial resources, and his ties to foreign jurisdictions. Further, if released Kwok would continue to pose a danger to the public. Kwok has caused severe economic distress to many, and has threatened those who complained about his criminal acts. Kwok's fraud has continued unabated for at least three years. Indeed, even after U.S. regulators put a stop to aspects of his fraud in 2021, Kwok was not dissuaded. He doubled down, adapted his techniques, and continued to rob thousands. Kwok's crimes are ongoing and continually evolving.

The defendant was arrested this morning and is expected to be presented in this District later today. As detailed herein, the Government seeks Kwok's pretrial detention due to his significant risk of flight and the danger he poses to the community.

I. Overview

A. Kwok's Background

Kwok is a Chinese citizen who emigrated from China to the United States in approximately 2015, seeking political asylum from the Chinese Communist Party ("CCP"). Between March 2017

and August 2017, Kwok traveled internationally on three occasions.[1] On or about September 6, 2017, Kwok filed an application for political asylum, which remains pending. As a general matter, if an asylee is charged with serious criminal conduct while in the United States, the criminal charges can serve as a bar to a grant of asylum. Kwok is married with two children. One child resides in London, England. The other child, and Kwok's wife, are believed to reside in the United States. None of Kwok's immediate family members are U.S. citizens.

Once in the United States, Kwok settled in New York City and purchased a Manhattan apartment for approximately $68 million. *See* Indictment (Ex. A), at ¶ 6. Starting at least in or about 2017, Kwok participated in a number of press interviews, attracting widespread attention for his claimed fight against the CCP. In 2018, Kwok founded, promoted, and solicitated donations to two purported nonprofit organizations—the Rule of Law Society and the Rule of Law Foundation. *See id*. Kwok announced the launch of the Rule of Law organizations during a lavish event in Manhattan. While both organizations' websites prominently feature Kwok's image and quotations from Kwok, the Rule of Law organizations simultaneously disclaim a formal association with the defendant and various entities that he controls, including entities that were instrumentalities of his fraud.[2] The Rule of Law organizations provide the foundation on which Kwok built his fraud; in particular, Kwok used the organizations to amass a large following of individuals who were predisposed to believe Kwok, and Kwok leveraged his followers' support into financial investments through false and materially misleading information.

Kwok maintains three residences in the tri-state area—the penthouse apartment on Fifth Avenue in Manhattan, where he was arrested on March 15, 2023; a mansion in Mahwah, New Jersey that was purchased for approximately $26 million in December 2021 using proceeds of the charged fraud; and a large Connecticut residence, which was purchased through a Kwok-controlled entity in February 2020 for more than several million dollars. According to witnesses, Kwok has surrounded himself with around-the-clock armed security guards who are formally employed by an entity that is funded by proceeds of Kwok's fraud scheme. In addition, Kwok appears to travel among his residences in a caravan of luxury automobiles.

B. The Nature and Circumstances of the Offense

On March 6, 2023, a federal grand jury in this District returned a sealed indictment (the "Indictment"), charging the defendant and his co-conspirator, Kin Ming Je, a/k/a "William Je"

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[1] Records reveal that one trip was to the United Kingdom, but it is not presently clear where Kwok traveled on the other two occasions. From 2006 through 2013, Kwok made at least approximately ten trips to the United States from other countries.

[2] *See, e.g.*, https://www.rolsociety.org/en/ (last accessed March 13, 2023) ("ROLS IS NOT ASSOCIATED WITH ANY FOR PROFIT BUSINESS OR INDIVIDUAL, INCLUDING BUT NOT LIMITED TO MR. GUO WENGUI, GTV MEDIA GROUP, INC.; G CLUB OPERATIONS LLC; GNEWS LLC; H COIN; OR H DOLLAR. NEITHER MR. GUO WENGUI NOR ANY ENTITY OR INDIVIDUAL ASSOCIATED WITH HIM IS AN AUTHORIZED REPRESENTATIVE OF ROLS. ANY STATEMENTS OR OTHER COMMUNICATIONS MADE BY MR. GUO WENGUI AND/OR ANY OTHER UNAUTHORIZED INDIVIDUAL ARE PERSONAL IN NATURE AND MAY NOT BE ATTRIBUTED TO ROLS.")

("JE"), with eleven counts: conspiracy to commit wire, securities, and bank fraud, and money laundering, in violation of 18 U.S.C. § 371; four counts of wire fraud, in violation of 18 U.S.C. §§ 1343 and 2; three counts of securities fraud, in violation of 15 U.S.C. §§ 78j(b) & 78ff, 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2; and three counts of money laundering, in violation of 18 U.S.C. §§ 1956(a)(2)(A), 1956(a)(2)(B)(i), 1957, and 2.[3]

From at least in or about 2018 through in or about March 2023, Kwok, Je, and others conspired to defraud thousands of victims of more than $1 billion through a scheme that they operated using a series of complex fraudulent businesses and fictitious investment opportunities that connected dozens of interrelated entities controlled by Kwok. *See* Ex. A at ¶ 1. Kwok, Je, and their co-conspirators laundered their fraud proceeds through foreign and domestic bank accounts and entities, layering the fraud funds to conceal their source, as well as using the fraud proceeds to further promote the ongoing scheme. Kwok and Je also misappropriated victim funds for their own personal use and for the use of their family members, including for personal investments and the purchase of luxury vehicles and goods. *See* Ex. A at ¶¶ 1-4.

1) *The GTV Private Placement*

In April 2020, in a recorded video broadcast on the Internet, Kwok personally announced an illegal private stock offering relating to his purported media company, GTV Media Group, Inc. ("GTV"). *See* Ex. A at ¶ 12. In that launch video, Kwok detailed the investment terms of the GTV private placement (the "GTV Private Placement"), provided his cellphone number, and encouraged people to contact him directly with any questions. Many did. The Government's evidence includes direct communications between Kwok and prospective investors, including text messages and video and voice calls, during which Kwok endorsed GTV and made representations about the financial benefits of participating in the GTV Private Placement. Kwok also sent, and directed his co-conspirators to send, GTV offering documents—including a "Confidential Information Memorandum" ("PPM") (attached as Exhibit B). The PPM stated that the money raised through the GTV Private Placement would be used "to expand and strengthen [GTV's] business." In videos posted on social media and in calls with potential investors, Kwok prophesized outsized returns on the GTV investment. Investors relied on statements that Kwok made and on representations in the PPM. In interviews with the Government and with the FBI, victims have explained that they expected their investment money would be used for GTV's business.

Between approximately April 20, 2020 and June 2, 2020, Kwok and his co-conspirators sold approximately $452 million worth of GTV common stock to more than 5,500 investors. *See* Ex. A at ¶ 12(e). The victims' money was funneled through a series of bank accounts controlled by Kwok and/or his close associates, including Je and CC-1. The accounts were primarily held in the name of Saraca Media Group, Inc. ("Saraca"), GTV's parent company, which was owned by a close relative of Kwok. Other bank accounts were held in the name of an intermediary entity that effectively pooled small-dollar investors' funds for purposes of investing in GTV on behalf of those non-accredited investors, thereby flouting U.S. Securities and Exchange ("SEC") regulations regarding limitations on the type of investors to whom securities may be offered via an unregistered securities offering. *See* Ex. A at ¶ 12(g).

[3] Je was also charged, in Count 12, with obstruction of justice, in violation of Title 18, United States Code, Section 1512(c)(2).

Mere days after the GTV Private Placement generated nearly half a billion dollars, Je completed negotiations with a particular investment manager ("Manager-1") regarding an investment into a high-risk hedge fund ("Fund-1"). Fund-1 was designed as a hedge against severe Asia-related economic shocks for extremely high-net worth individuals. Kwok and Je—neither of whom held a formal position at GTV—directed the $100 million investment of GTV Private Placement funds into Fund-1.

On June 3, 2020, the day after the GTV Private Placement closed, a particular individual ("CC-1")—who has worked for Kwok since they both lived in China and has served as the President, Treasurer, and Secretary of various entities that manage the Kwok family's personal wealth—signed a subscription agreement with Manager-1 regarding the $100 million investment into Fund-1 by Saraca (*i.e.*, GTV's parent company). In April and May 2020, a particular bank account held in the name of Saraca ("Account-5601") received approximately 2,700 deposits and incoming wire transfers from individuals throughout the world seeking to invest, based on Kwok's representations, in GTV. The same day, CC-1 transferred $100 million from Account-5601 to another bank account held in the name of Saraca ("Account-2601"), which had a zero balance prior to the transfer. On June 5, 2020, acting at Kwok's direction, CC-1 transferred the $100 million to Fund-1. The $100 million investment in Fund-1 was comprised of funds raised through the GTV Private Placement; the Fund-1 investment was contrary to representations in the PPM concerning how GTV investor funds would be used. Indeed, the $100 million investment was not even made for the benefit of GTV; rather, it was made for the benefit of Saraca, which is beneficially owned by Kwok's close relative. Ex. A. ¶ 12(h). The unregistered GTV Private Placement drew the attention of the SEC and banks' anti-money laundering compliance regulators. As a result, many Kwok-affiliated bank accounts were frozen or closed. *See* Ex. A at ¶ 13(a)-(b). On September 13, 2021, the SEC filed a cease-and-desist order against Saraca, GTV, and an intermediary entity (the "SEC Settlement"), which required the three companies to pay more than $539 million in disgorgement and penalties relating to the GTV Private Placement. The funds recovered through the SEC Settlement have been consolidated into a "Fair Fund" for distribution to victims.[4]

The PPM did not contemplate that investor money would be invested in a high-risk hedge fund made for the ultimate benefit of Kwok's relative.

2) *The Farm Loan Program*

After the SEC's scrutiny and bank closures halted the GTV Private Placement fraud, Kwok—undeterred—devised new and creative methods to evade investor protection laws. In or about June 2020, Kwok devised a "loan offering" that enabled his victims to invest (or reinvest) into GTV through a network of "Farms," or collectives of individuals located in various cities who are purportedly focused on promoting democratic reforms in China (the "Farm Loan Program"). *See* Ex. A at ¶ 13. Kwok used his diffuse "Himalaya Farm Alliance," and the Farms' many affiliated bank accounts, to collect approximately $150 million in fraud proceeds, and to funnel those proceeds into accounts under his and Je's control.

To attract victim money to the Farm Loan Program, Kwok continued to endorse the purported value of GTV. For example, in an August 2, 2020 video, Kwok falsely represented that

[4] *See generally* https://www.sec.gov/enforcement/information-for-harmed-investors/gtv-media-group.

GTV had a "market value of 2 billion US dollars." At the time of that video, Kwok knew that valuation was false, because GTV was a new company that was not generating any revenue. Rather, Kwok's statement was designed to attract individuals to invest in the Farm Loan Program. Kwok also solicited participation in the Farm Loan Program through direct communications with victims, including by connecting victims with various Farm "leaders." In videos distributed on the Internet, Kwok described the Farm Loan Program as an opportunity for investors to acquire more stock in GTV. For example, on June 23, 2021, Kwok stated that "the comrades participating in the farm loan project will get new GTV stocks at a ratio of 1:10."[5]

Kwok and Je misappropriated money raised through the Farm Loan Program. Approximately $20 million was transferred to Kwok's close relative and approximately $5 million was transferred to an entity owned by Kwok's spouse. An additional approximately $2.3 million was used to fund maintenance for the 145-foot luxury yacht named the "Lady May" (pictured below) that Kwok used.

3) *G|CLUBS*

In or about June 2020, Kwok and his co-conspirators laid the groundwork for G|CLUBS, a purported high-end membership program that was, in reality, another vehicle for Kwok's fraud. As with the GTV Private Placement and the Farm Loan Program, Kwok himself promoted G|CLUBS to victims in videos that were broadcast on the Internet and distributed to Kwok's hundreds of thousands of online followers via social media. Kwok represented that G|CLUBS memberships included, among other benefits, stock in various Kwok-associated entities, including GTV and G Fashion.[6] For example, in a video dated June 20, 2020, Kwok made the following statements, among others:

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[5] All statements attributed herein to KWOK have been translated from Mandarin to English, unless otherwise noted.

[6] The use of "G" refers to "Guo," the common alias Kwok uses. Thus, the various "G" entities promote their association with Kwok in their title.

- "We will roughly start selling G club in the beginning of July. We have now made a comprehensive arrangement. G club is a membership card [for] 50,000 US dollars. There are 10,000 to 50,000, and for the 50,000 US dollars option, it will automatically give you 10,000 US dollars that as interest-free financing capital, allowing you to own G fashion stocks for one dollar per share when they are listed in the future."

- "What is G club? G club is not a membership. G club is for you to get the original stocks. The comrades who have not invested in GTV original stocks this time to be given a channel, so that you can get legal G club, G fashion stocks, and that's it. Simple."

Several months after G|CLUBS launched in October 2020, Kwok and his co-conspirators encouraged victims to purchase "multiple" G|CLUBS memberships—which was, in effect, a way for Kwok, Je, and others to collect even more money from their victims. Victims have reported that they purchased "multiple" memberships for the express purpose of acquiring more GTV and/or G Fashion stock, which the victims understood to be a benefit of paying for G|CLUBS memberships. In another video dated July 30, 2021, Kwok stated, among other things:

- "Some of the comrades in arms asked, '[w]ill I still get a free stock offer when I buy a G|CLUBS membership?' 100%. Because I said that I have to promise that anyone who buys G-Club membership before September 17 must be allotted shares, which is exactly the same. Because we said that anyone can choose whether to use your money to buy G-Club before September 17, G-Club and the stock shares. You'll get both."

Kwok and his co-conspirators employed a third-party entity ("Company-1") to assist in their laundering of G|CLUBS funds. Company-1 was created at CC-1's express recommendation and was operated by a one-time Kwok employee ("Individual-1"). Kwok participated in telephone calls with Individual-1, Je, and others regarding the movement of G|CLUBS funds into and through Company-1 bank accounts, among other things. Unbeknownst to Kwok, Individual-1 recorded certain of those calls; which make clear that it was Kwok who directed the disposition of G|CLUBS "membership fees" for purposes other than investment in G|CLUBS.

Indeed, although G|CLUBS members purchased hundreds of millions of dollars' worth of G|CLUBS memberships, the money did not fund G|CLUBS's illusory membership services. Rather, Kwok, Je, and others laundered and misappropriated a substantial portion of the funds, including for the following personal expenses, among others:

- A $4.4 million custom-built Bugatti luxury sports car that was purchased for a close family relative of Kwok (shown below):

- KWOK's $26.5 million mansion in Mahwah, New Jersey in December 2021 (shown below):

- Funding an escrow account holding an additional $13 million in G|CLUBS fraud proceeds that were used to pay for renovations to the Mahwah Mansion and furnishings for Kwok's homes, including the following: more than approximately $1 million for rugs; a $53,00 fireplace log holder; more than $30,000 for a bed; $70,000 for two mattresses; a $59,000 box to store luxury watches; and two $180,000 tables.

4) *Himalaya Exchange*

In or about April 2021, Kwok began to promote the Himalaya Exchange, a purported cryptocurrency "ecosystem." The Himalaya Exchange included a purported stablecoin called the Himalaya Dollar ("HDO" or "H Dollar") and a trading coin called Himalaya Coin ("HCN" or "H Coin"). *See* Ex. A at ¶ 16. As a "stablecoin," HDO is purportedly backed 1-to-$1 by cash / gold reserves, whereas HCN allegedly is traded based on market supply and demand. *See* Ex. A at ¶ 16. In October 2021, prior to the so-called "initial coin offering" of Himalaya Exchange digital assets, Kwok promoted the Himalaya Exchange in videos that were broadcast on the Internet. *See* Ex. A at ¶ 17. For example, Kwok falsely stated the following:

- "I am talking about your H Coins, 'Brother Seven' [*i.e.*, KWOK] designed it . . . [I]t was born as currency on the first day, so it has value and it is linked to gold . . . clear gold directly. No matter how much it raises, 20% will turn into gold."

- "If the H Coin is worthless, [the issuer of H coin] can sell all 20% of the gold, exchange it to you, and become your money. Or take all the value of 20% gold and ask everyone to unify it and make it yours."

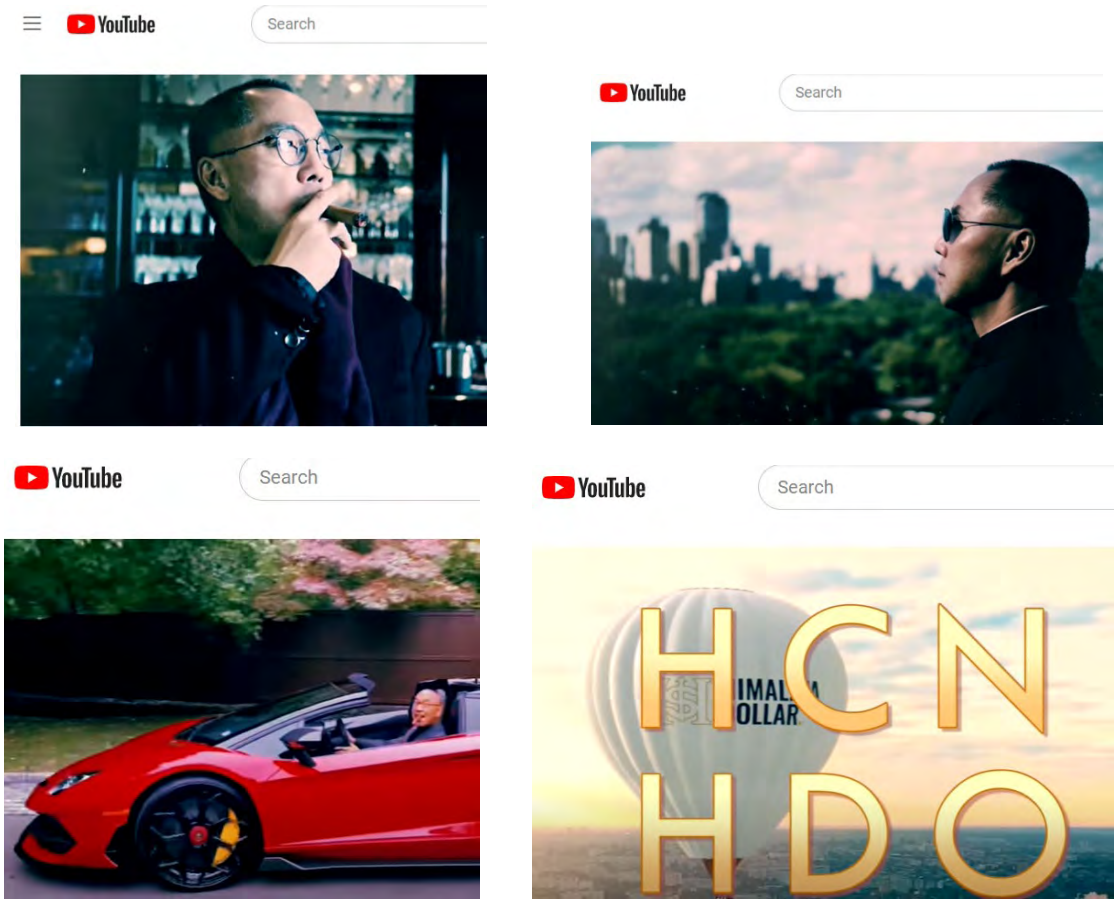
- "If anyone loses money, I can say that I will compensate 100%. I give you 100%. Whoever loses money, I will bear it."

Kwok's representations are false. The Government has uncovered no evidence suggesting that Kwok personally guaranteed victims against losses incurred on the Himalaya Exchange, nor any evidence that Himalaya assets can be redeemed for gold. Indeed, the Whitepapers available on the Himalaya Exchange website provided (in fine print) that, contrary to Kwok's representations, HCN and HDO are mere "credits," not cryptocurrencies. Moreover, while Himalaya Exchange members could request to exchange their "HDO" credits for an equivalent payment in U.S. dollars, the HDO Whitepaper stated that the Himalaya Exchange had the "discretion" to deny any such request.

On November 1, 2021, just days following Kwok's statements, , the initial coin offering for HDO and HCN occurred. HCN began trading at an equivalent value of .10 cents per coin. Within two weeks, according to the Himalaya Exchange website, HCN was worth approximately $27. This represented a 26,900% increase in value and an approximately $27 billion total valuation.

Kwok's association with HCN is also evidenced in a highly stylized music video for Kwok's original song "H Coin To The Moon," in which Kwok claimed H Coin would go "to the moon"—a reference to a profound increase in value used by many in the cryptocurrency space.[7] Kwok is the face of that video, appearing throughout in luxury cars and on a yacht, and smoking cigars, as shown in the screenshots below:

[7] https://www.youtube.com/watch?v=vgof8s0ahxE.



As explained in the Indictment, in September and October 2022, pursuant to judicially authorized seizure warrants, the Government seized $335 million in bank accounts associated with the Himalaya Exchange. Ex. A, ¶ 23. Days after the initial seizures in September 2022, Je, the financial architect of Kwok's billion-dollar fraud, tried to misappropriate approximately $46 million held by the Himalaya Exchange for his own benefit. Within approximately two days of the first judicially-authorized seizures of Himalaya Exchange-related accounts, Je and Himalaya Exchange staff contacted the management of a domestic bank that held Himalaya Exchange bank accounts to effectuate a HDO "redemption" for an unnamed VIP. That "VIP" was Je himself. Je was trying to "redeem" HDO and then transfer the money to a bank account he held in the United Arab Emirates ("UAE") before the Government could seize it. Je even told the bank that the "redemption" needed to happen "today or it is meaningless." In total, the Government has seized more than $630 million in proceeds from Kwok's fraud.[8]

5) *Laundering and Misappropriation of Fraud Proceeds*

As described above, Kwok, Je, and their co-conspirators laundered a significant portion of fraud proceeds through dozens of entities and hundreds of bank accounts, including foreign bank accounts controlled by Je. For example, the UAE bank account that Je controlled under the name of one of his companies—the same account to which Je attempted to offshore approximately $46

[8] Since the Indictment was returned, the Government has obtained an additional approximately $25 million in fraud proceeds that had been held in bank accounts subject to seizure.

million in fraud proceeds following the Government's initial seizures—received at least approximately $128 million in fraud proceeds, which was then misappropriated to Kwok, Je, and their family members, transferred to other controlled bank accounts as purported "loans" or other legal arrangements, or wired to other Kwok- and Je-controlled entities. An additional more than approximately $100 million in fraud proceeds passed through Je-controlled bank accounts in the Bahamas that were held in the name of another of his companies.

6) *Kwok's "New" A10 "Offering"*

The Government's September and October 2022 seizures led Kwok to adapt his tactics yet again. In February 2023, Kwok announced a new "A10 offering." As reported on the Kwok-controlled GNews website,[9] A10 is a purported stock offering for 5% of the Himalaya Exchange and 5% Gettr, a social media company that Kwok controls through a series of shell companies.[10] Like other Kwok investment "opportunities," Kwok has purportedly guaranteed investors against any loss they incur through their investment in A10. (*Id.*) The A10 investment therefore has all the hallmarks of the prior instrumentalities of Kwok's fraud.

7) *Defrauding Victims of Their SEC Fair Fund Disbursements*

Not only is Kwok continuing to launch new "offerings," but Kwok also has attempted to recoup the money the companies he controlled were required to disgorge pursuant to the SEC Settlement. As money in the Fair Fund was disbursed to victims starting in or around April 2022, victims reported that Kwok encourage them to (re-)invest any Fair Fund disbursements they obtained in Kwok's fraudulent offerings. Far from being deterred from further criminal conduct by the SEC settlement, Kwok used the Fair Fund payments from that very settlement as an opportunity to re-victimize his victims. Kwok's blatant disregard and contempt for U.S. laws protecting investors (among other laws) is another example of extensive and dangerous obstructive conduct described further below.

C. Evidence Against Kwok

The Government's evidence against Kwok, described in part in the 38-page Indictment, is strong. It consists of, among other things, bank records, email and cellphone communications, recorded phone calls, Kwok's phone messages with victims and statements to the public, offering documents, and anticipated testimony from witnesses, including Individual-1 and victims, all establishing (i) Kwok's knowledge and control over the entities through which Kwok, Je, and others operated the fraud scheme, (ii) Kwok's fraudulent statements in connection with soliciting investors' funds, and (iii) Kwok's deceptive efforts to conceal the fraud and launder and misappropriate the fraud proceeds. For example:

- The PPM did not allow Kwok to direct that $100 million in GTV investor money be invested in a high-risk hedge fund made for the ultimate benefit of Kwok's relative.

[9] GNews—as in "Guo" News is a website controlled by Kwok which publishes and distributes Kwok's statements and videos. GNews also links to news reported by other media outlets.

[10] *See* "Highlights of Mr. Miles Guo's Live Broadcast, Feb 8, 2023," *available at* https://gnews.org/articles/906377 (last accessed Mar. 13, 2023).

- Bank records clearly evidence the fraud scheme. For example, wires transmitted to the accounts that collected GTV Private Placement "investments" had reference memos that unquestionably tied the incoming funds to the fraud; for example: "Gtv Investment," "Stock Subscription," "Investment," "G- Tv Common Stock Subscription," "InvestmeNt [sic]," "Investment To G- Tv [sic]," "Gtv Stockpurchase," "Capital Injection Infusion," "To Inves Stment [sic]," "Private Placement Investment," "Gtv Media Investment," "Gtv Inv," and "Additional Stock Purchase."

- Bank records and tracing analysis show that Kwok, Je, and others stole much of the approximately $150 million victims "invested" into the Farm Loan Program, which was falsely represented to be used for "general working capital purposes," Ex. A ¶ 13.e, by transferring proceeds to their family members.

- The G|CLUBS multiple memberships mechanism is additional evidence that Kwok evaded U.S. securities regulations and, further, is clear evidence that G|CLUBS was merely a money laundering operation designed to "sell" stock under the cover of a membership program, which would not ordinarily be subject to SEC regulations.

- Recorded phone calls also establish that Kwok directed his co-conspirators to steal G|CLUBS money that victims sent to Company-1 bank accounts.[11] For example, during a recorded call on May 6, 2021, Kwok directed Je to, "transfer the [G|CLUBS membership] money to the [Je's company] as the third party. And then cancel all purchases of G-club." That is, Kwok effectively directed Je to arrange for Company-1 to process G|CLUBS members' purported "membership fees," transfer the money to a company that Je controlled, which is based abroad, and then *cancel* the associated memberships—thereby blatantly misappropriating that money.

- Contrary to representations on the G|CLUBS website and statements made by Kwok during video broadcasts, G|CLUBS offers few (if any) tangible services to its members. At most, G|CLUBS held online conferences and purported to host sweepstakes that awarded members cash prizes and luxury cars. Yet, as an example, a G|CLUBS member who won a BMW valued at approximately $37,500 did not receive the car, but instead had the value of the BMW applied toward an "upgrade" from a Tier 1 G|CLUBS Membership (worth $10,000) to a Tier 4 G|CLUBS Membership (worth $40,000), with the remainder of the "prize" partially credited toward annual membership fees for the next three years.

- The Government has obtained emails reflecting member complaints that G|CLUBS has neither provided promised membership services nor GTV or G Fashion stock in exchange for substantial G|CLUBS membership payments.

- Kwok's own video-recorded words show him falsely promoting the Himalaya Exchange and its purported cryptocurrencies. After amassing hundreds of millions

[11] Kwok's leadership on these calls is notable, given that Kwok and the various entities generally disclaim that Kwok has any managerial control.

of dollars in victim funds from G|CLUBS and from Kwok's online followers, Kwok's principal money launderer, Je, attempted to obstruct the Government's investigation and its seizures of those funds by seeking to transfer $46 million to the UAE bank account that has been used by Kwok and Je to misappropriate funds. Je's efforts to misappropriate the Himalaya Exchange funds are spelled out in text messages.

- The Himalaya Exchange was promoted as currency that could be used anywhere. Yet, bank records and emails reveal that Himalaya Exchange employees used a conventional bank transfer to pay for a Ferrari, and they falsely represented that the Ferrari was paid for with HDO.

II. Kwok's Obstruction

Kwok has aggressively used litigation and pressure tactics to confront his critics. Indeed, he has fomented unrest directed toward those who have opposed and criticized him.

A. Kwok's Civil Litigation

Since his arrival in the United States, Kwok has been engaged in dozens of civil lawsuits. For example, in 2017, the investment fund Pacific Alliance Asia Opportunity Fund L.P. ("PAX") filed a civil lawsuit against Kwok in New York Superior Court, seeking the repayment of approximately $88 million for an overdue loan that Kwok had personally guaranteed. On or about February 3, 2021, PAX secured a judgment against Kwok in the amount of approximately $116,402,000. *See* PAX Lawsuit, No. 652077/2017, 2018 BL 236400, Dkt. 716. (N.Y. Sup. Ct. June 28, 2018) (Ostranger, J.). After a year of Kwok hiding his assets and failing to pay PAX as ordered, on February 9, 2022, Justice Barry Ostranger entered an Order of Civil Contempt against Kwok for his "efforts to avoid and deceive his creditors by parking his substantial personal assets with a series of corporations, trusted confidants, and family members." PAX Lawsuit, Index 652077/2017 (N.Y. Sup. Ct. Feb. 9, 2018). The total judgment of $254 million included $134 million in contempt fees, arising from what Judge Ostranger described as Kwok's "shell game" to shield his assets from PAX. The February 9, 2022 decision and contempt order directed Kwok to pay the $134 million contempt fine to PAX within five days, or he would face contempt sanctions. Six days later, Kwok filed for bankruptcy.

B. Kwok's Chapter 11 Bankruptcy Case

On February 15, 2022, Kwok initiated a Chapter 11 bankruptcy case in Connecticut. In his initial filings, Kwok claimed to have as much as $500 million in debt and, despite living in a luxury properties, surrounded by luxury cars and lavishly expensive furniture, claimed to have no more than $100,000 in assets. *See In Re Ho Wan Kwok*, Case No. 22-50073 (JAM). In bankruptcy court filings, Kwok has represented that specified assets—including his approximately $37 million yacht known as the Lady May and his penthouse at the Sherry-Netherland in Manhattan, where he was arrested this morning—were not his, but rather were properties belonging to family members, shell companies, and other financial entities. Kwok's bankruptcy proceedings are ongoing.

C. Kwok's Threats and Attacks Against Others

1) *Findings by the U.S. Bankruptcy Court in the District of Connecticut*

The bankruptcy court appointed a trustee (the "Trustee") to manage Kwok's financial affairs and to obtain assets for disbursement to Kwok's creditors. Displeased with the Trustee's actions, Kwok mobilized his supporters to harass the Trustee. For example, as described below, Kwok fomented protests and anger directed toward the bankruptcy trustee, which obstructed the bankruptcy process. On November 23, 2022, to thwart the harassment, the Trustee sought—and was granted—a temporary restraining order. But that did not deter Kwok from further obstructive actions. Indeed, following a four-day evidentiary hearing, on January 11, 2023, the Honorable Julie A. Manning, United States Bankruptcy Judge for the District of Connecticut, preliminary enjoined Kwok from further harassment of the Trustee. *In re: Ho Wan Kwok, et al.,* Chapter 11 Case No. 22-50073 (JAM) (Bankr. D. Conn. Jan. 11, 2023) (the "Order") (Exhibit C.). In connection with the preliminary injunction, Judge Manning found the following facts:

- Kwok is associated with "Himalaya Exchange, Gettr, GFashion, GMusic, GClubs, GNews, and GEdu. The Farms are also known as Himalaya Farms, which are social media groups used by members of the [New Federal State of China, a Kwok controlled organization ("NFSC")] to communicate with each other." And Kwok "founded and controls GNews[, which is] connected to Saraca Media." (Order at 9.)

- Kwok "uses, inter alia, single use 'burner' phones to communicate with members of" various entities he is associated with, including the Himalaya Farms. (*Id.* at 11.)

- "On July 19, 2022, [Kwok's] Gettr [social media] account posted a statement about the Chapter 11 Trustee, stating 'Please spread the words about the revelations of the CCP military intelligence and the truths about the trustee of my bankruptcy case. All the U.S. DOJ officials and lawyers from various law firms who want to deport me and harm me will be sent to prison.'" (*Id.* at 17.)

- On October 21, 2022, Kwok made a statement requesting that his followers stop their protesting activities. (*Id*. at 17.)

- "On November 15, 2022, the NFSC Gettr Page, @NFSCSpeaks, posted personal home addresses of the Chapter 11 Trustee, the Chapter 11 Trustee's family members, the chairman of PAG [a creditor of Kwok], family members of the chairman of PAG, and the law offices of the Chapter 11 Trustee's Counsel, and PAX's counsel. The @NFSCSpeaks post called for a 90-day protest at these locations. The post also contained photographs of some of the individuals living at the home addresses listed in the post." (*Id*. at 19.)[12]

[12] Elsewhere in the opinion, Judge Manning found that the @NFSCSpeaks Gettr account is controlled by NFSC, an entity associated with Kwok, and further found that Kwok communicates with NFSC members using burner phones. *Id*. at 11, 16.

- "On November 20, 2022, the @NFSCSpeaks account posted a statement identifying the Chapter 11 Trustee's daughters and stating their father is aiding and abetting the CCP. The post also contained photographs of the Chapter 11 Trustee and his daughters and identified where they work. The @Miles account reposted this @NFSCSpeaks post on its Gettr page." (*Id.* at 22 (citations omitted).)

- "On November 20, 2022, protests occurred directly in front of the Chapter 11 Trustee's home. The protesters held signs which for the most part, were targeted directly at the Chapter 11 Trustee." (*Id.* at 23.)

- "On November 21, 2022, [Kwok] participated in an internet broadcast . . . and advised the audience to avoid receipt of subpoenas by, *inter alia*, not going home. . . . In the same internet broadcast described above, [Kwok] stated, that the Chapter 11 Trustee and Paul Hastings [the Trustee's law firm] would suffer 'calamities' because of the [ ] subpoenas. [Kwok] said "[t]o deal with this rogue, we have our rogue's ways. In a few days you will see what would happen to him. Calamities, I can tell you guys. They will suffer calamities!" (*Id*. at 23.)

- In a video posted on social media, while protesting outside Paul Hastings, an individual associated with Kwok's entities stated "[t]o everyone at Paul Hastings . . . Millions of People that have been persecuted by the CCP with curse you, will curse your family, curse every single person in your life because there is blood on your hands" and "the people of the New Federal State of China, 500 million of us . . . we stand against Paul Hastings, and we stand against O'Melveny.[13] There is no going back, there is no recourse. You have committed a crime, and now you're going to suffer the consequences of your actions." (*Id.* at 24-25.)

- "On November 25, 2022, the Chapter 11 Trustee received a series of emails at his work email from [an] unknown ProtonMail [an encrypted email service] email address with consecutive subject lines, 'I wish' and 'i kill.' The 'I wish' email had the body text 'hhhhhhhhhahahahaha.' The 'i kill' email had no body text." (*Id.* at 25.)

- On November 26, 2022, an unknown caller left a voicemail for the Trustee stating "you are CCP's running dog. You need to go to Hell. You just did something so ridiculous and your end is so close. F-U-C-K." (*Id.* at 27.)

As a result of these findings, and to thwart further interference with the bankruptcy proceedings, Judge Manning enjoined Kwok "from inciting the picketing" of the Trustee, "such as by posting or reposting on social media the home addresses of the Chapter 11 Trustee, his counsel, and his family members and of [plaintiff's] chairman, his counsel, and his family members or by calling for protests at their homes. The Debtor cannot evade the injunction through calling on or supporting others to act in his stead." (*Id.* at 47.) Protest limitations were also

[13] O'Melveny represents an entity that has sued Kwok and is one of Kwok's creditors.

imposed prescribing the time, place, and manner in which Kwok followers can protest the Trustee and Paul Hastings.

Despite this injunction, obstruction of Kwok's bankruptcy proceeding has continued. Two days after the preliminary injunction was issued, on January 11, 2023, on his Gettr page, Kwok encouraged his followers to flood the bankruptcy docket with claims (regardless of their merit). By so doing, Kwok sought to force the Trustee to incur unnecessary costs and expense as well as obstruct the proceedings.[14] On January 23, 2023, Kwok posted a video on Getter in which he encouraged more of the same, and revealed the purpose of the filings was to obstruct the bankruptcy court and cause unnecessary expenses for the Trustee:

- "All of you go to the bankruptcy court . . . Let the attorney's fees of trustee accumulate to 1 trillion if possible."

- "Think about it, $1,860 an hour as the attorney's fees. How much attorney fees is it after you all registered? How good is that!"

2) *Kwok's Attacks Against Witnesses*

Not only has Kwok publicly harassed the court-appointed Trustee and the Trustee's law firm, Kwok also has publicly attacked his critics and turned the ire of his hundreds of thousands of followers against them. For example, one particular individual ("Individual-2") who worked with Kwok in connection with the GTV Private Placement before cutting ties with Kwok, expressed on social media that Kwok misled his followers and defrauded his followers. Kwok responded by publicly branding Individual-2 as a "Demon" and a CCP spy. A Kwok-controlled Farm subsequently sued Individual-2, who now lives in fear and in hiding as a result of Kwok's public threats. In particular, and as Kwok well knew, branding Individual-2 as a CCP spy has had the effect of turning Kwok's thousands of followers against Individual-2.

Kwok has also threatened victims who have sought reimbursements or complained about his fraud. Several victims have informed the Government that after complaining to Kwok about their money he branded them CCP spies, sometimes in social media or video posts, effectively directing the wrath of Kwok's follower base toward them. Another victim reported they were concerned Kwok would post information about their family, who still resides in China, online. Doing so would associate that victim's family with Kwok's anti-CCP movement and place those China-based family members in danger. Indeed, Kwok and his co-conspirators collected detailed information about their victims including, sometimes, members of their families in China. This information serves as an implied extortion threat for his critics reminding them to keep quiet, or he will place them and their family in grave danger.

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[14] https://gettr.com/post/p24ybdca10b (last accessed March 14, 2023) ("Greetings, esteemed comrades. Paul Hastings Law Firm is launching a campaign to register creditors! If there are comrades who are not strong-willed, feeling their own investments and past investments, have no sense of security and need to be a debtor, and if you think it is a better choice, you must contact Paul Hastings Law Firm to register in the Bankruptcy Court of Connecticut as soon as possible, and maybe you can become a billionaire.")

3) *Kwok's Attacks Against His Critics*

Kwok's campaign of threats and encouraging violence extends broadly. In November 2020, an anti-CCP activist ("Activist-1") filed suit against Kwok, alleging that Kwok has led a campaign of harassment and threats against him. *See Xiqui (Bob) Fu v. Guo Wengui GTV*, 20 Cv. 257 (W.D. Tx. 2020). Defamatory posts about Activist-1 were spread on social media. Kwok also called for actual violence and encouraged hundreds of thousands of followers to protest outside Activist-1's home, offering tens of thousands of dollars in cash and securities for anyone who succeeded in "getting rid of" Activist-1. *See id.* Compl., Dkt. 1, at 6.

Also in 2020, Kwok mobilized his followers to protest outside the house of a journalist in Canada, who had been critical of Kwok. Kwok branded the journalist as a CCP spy, and supporters carrying banners with the names of Kwok-affiliated entities protested outside the journalist's Canadian home almost every day between September 14, 2020 and December 1, 2020. Kwok celebrated those protests. On November 25, 2020, two of the protesters physically assaulted one of the journalist's friends by repeatedly kicking the friend in the head and neck as he lay on the pavement outside the journalist's home. As has been publicly reported, the friend suffered a facial fracture, swollen-shut eyes, and lost a tooth.[15]

III. Applicable Law

Under the Bail Reform Act, 18 U.S.C. §§ 3141 et seq., where a judicial officer concludes after a hearing that "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community," the defendant shall be detained pending trial. 18 U.S.C. § 3142(e). In seeking pretrial detention, the Government bears the burden of showing by a preponderance of the evidence that the defendant poses a risk of flight or, by clear and convincing evidence, that the defendant poses a danger to the community, and that no condition or combination of conditions can address those risks. *See* 18 U.S.C. § 3142(f); *United States v. Sabhnani*, 493 F.3d 63, 75 (2d Cir. 2007); *United States v. Mercedes*, 254 F.3d 433, 436 (2d Cir. 2001).

The Bail Reform Act lists four factors to be considered in the detention analysis: (1) the nature and circumstances of the crimes charged; (2) the weight of the evidence against the person; (3) the history and characteristics of the defendant, including the person's "character . . . [and] financial resources"; and (4) the seriousness of the danger posed by the defendant's release. *See* 18 U.S.C. § 3142(g).

Where a judicial officer concludes after a hearing that "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial." 18 U.S.C. § 3142(e)(1).

Evidentiary rules do not apply at detention hearings, and the Government is entitled to present evidence by way of proffer, among other means. *See* 18 U.S.C. § 3142(f)(2); *see also*

[15] *See* https://bc.ctvnews.ca/video-shows-activist-beaten-kicked-amid-unusual-protest-outside-b-c-journalist-s-home-1.5206591.

United States v. LaFontaine, 210 F.3d 125, 130-31 (2d Cir. 2000) (Government entitled to proceed by proffer in detention hearings).

IV. The Defendant Should Be Detained Pending Trial

The nature and circumstances of the offense charged, the weight of the evidence against Kwok, his individual history and characteristics, and the nature and seriousness of economic danger and the serious risk of obstruction that would be posed by Kwok's release, and his substantial risk of flight are all factors that strongly counsel in favor of Kwok's pretrial detention.

A. The Nature and Circumstances of the Offense and the Strength of the Evidence Warrant Pre-Trial Detention

The nature and circumstances of Kwok's criminal conduct is both extraordinary and brazen. Kwok is a highly sophisticated fraudster who repeatedly lied to investors to fraudulently obtain more than $1 billion from thousands of victims, whom Kwok specifically targeted through his purported anti-CCP movement. Kwok then misappropriated hundreds of millions of the fraud proceeds he raised from victims to fund his own lavish lifestyle. Kwok also engaged in extensive efforts to conceal his crimes, including by assiduously maintaining a technical distance between himself and the entities he unquestionably controlled and used to carry out his fraud scheme. Kwok, Je, and others laundered their victims' money through a network of hundreds of bank accounts held in the names of at least 80 different entities or individuals, engaging in complex transactions and entering into sham loan and other legal agreements to further obfuscate the source and use of funds. *See* Ex. A at ¶ 3. Moreover, Kwok's escalation of his fraud scheme even after the SEC Settlement and the disgorgement of more than $500 million in GTV Private Placement fraud proceeds proves that he cannot be deterred and poses an ongoing economic danger to the community. As a result, the defendant is charged in eleven counts. The charged crimes are indisputably serious.

Moreover, the evidence against the defendant is overwhelming. One need look no further than the dozens of video recorded statements featuring the defendant himself promoting and trumpeting the GTV Private Placement, Farm Loan Program, G|CLUBS, and the Himalaya Exchange. Those videos establish that Kwok sought "investments" in those "opportunities" and that *Kwok himself* spouted dozens of spurious lies to encourage investments. Critically, Kwok claimed to his victims that their money would be used for GTV or to provide capital for so-called "Farms," and that, as "investors," they would be entitled to stock in various companies and membership benefits in G|CLUBS. The message from Kwok, at its core, was "invest" and you will benefit. Testimony from victims cements that they invested based on Kwok's lies and misrepresentations.

Documentary evidence, including bank records, similarly makes clear that Kwok's statements were lies. Victim funds have been traced through a sophisticated network of banks, shell companies, and entities until—hundreds of millions of dollars—of funds reached the pockets of Kwok and his family. Indeed, Kwok's videos, which were broadcast throughout the world, evidence his control over the luxury items purchased with victim money. That the victim money flowed through a complex network of accounts and entities also evidences Kwok's knowledge. It demonstrates that he sought to conceal the fraud proceeds he collected and, in many cases, to transfer money abroad to avoid the reach of the Government. Bank documents reflect that hundreds of millions of dollars in fraud proceeds were transferred, either directly or indirectly, to

bank accounts in the United States, Bahamas, and the UAE, among other places, and held in the name of companies owned or otherwise controlled by Kwok confidants, including his co-defendant, Je.

The Government's evidence also includes recorded communications of Kwok with co-conspirators discussing the fraud scheme and the laundering of fraud proceeds, and anticipated testimony from witnesses who worked at Kwok's direction. Victims have provided to the Government copies of communications they personally had with Kwok about the fraud. Collectively, this evidence overwhelmingly establishes Kwok's knowledge and control over the fraudulent offerings and the various entities that he used to further the fraud, his misstatements to victims, and his deceptive efforts to conceal his fraud.

As a result of the charged offenses, the defendant is exposed to a statutory maximum of 195 years and faces a Guidelines sentence of the statutory maximum.[16] By any measure, the charged crimes are extraordinarily serious, the evidence against Kwok is strong, and Kwok's actions have had a devastating impact on many victims, while thousands of more victims exist. These factors strongly weigh in favor of detention pending trial.

B. Kwok Presents Ongoing Economic Danger

If released, Kwok poses an ongoing economic danger to the community. *See United States v. Madoff*, 586 F. Supp. 2d 240, 253 (S.D.N.Y. 2009) ("The Court recognizes . . . that there is jurisprudence to support the consideration of economic harm in the context of detention to protect the safety of the community"). Courts have recognized that a defendant's economic danger to the community may be taken into consideration—"even in the cases where pretrial detention is the relevant question"—based on the defendant's "propensity to commit further crimes, even if the resulting harm is solely economic." *Id.* (citation omitted); *see also United States v. Reynolds*, 956 F.2d 192, 192 (9th Cir. 1992) (denying bail pending appeal); *United States v. Provenzano*, 605 F.2d 85, 95 (3d Cir. 1979) (denying bail pending appeal and noting that "a defendant's propensity to commit crime generally, even if the resulting harm would be not solely physical, may constitute a sufficient risk of danger to come within the contemplation of the Act.").

As detailed above, Kwok's fraud scheme has escalated over the course of years. He has continually modified his tactics to evade regulators, conceal the source of funds, and move stolen funds overseas. Indeed, even after the GTV Private Placement was thwarted by the SEC, Kwok was not deterred—he brazenly continued to sell GTV stock through other mechanisms, including by embedding the stock within purported "convertible loan" agreements, which were extended to

[16] Pursuant to U.S.S.G. § 2S1.1 the base offense level is the underlying offense from which the laundered funds were derived. Pursuant to U.S.S.G § 2B1.1 the base offense level is seven, which is increased, pursuant to § 2B1.1(b)(1)(P), by 30 levels because the loss exceeded $550,000,000. Pursuant to § 2B1.1(b)(2)(A), four levels are added because the offense resulted in substantial hardship to five or more victims. Pursuant to § 2B1.1(b)(10)(C), two levels are added because the offense involved sophisticated means. Pursuant to § 2S1.1(b)(2)(B), two levels are added if the defendant is convicted under 18 U.S.C. § 1956. Pursuant to § 3B1.1(a), four levels are added because the defendant was "an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive." The forgoing yields a total offense level of 49, which corresponds to a Guidelines sentence of life or the statutory maximum.

individual investors by a diffuse group of "Farms," and disguising the stock as one of the purported benefits of G|CLUBS "membership." These sophisticated adaptations have caused more than $500 million of additional harm to Kwok's victims and plainly demonstrates Kwok's ability, and desire, to continue his fraud, regardless of regulatory or other enforcement action.

The Himalaya Exchange is another example of Kwok's ongoing danger to the public. The Government's investigation has revealed that, for years, Kwok has sought to acquire his own bank, which would allow him to circumvent banking restrictions and regulations that have at times frustrated his fraud. In the absence of securing their own banking license, Kwok and Je created the next best thing: the Himalaya Exchange, a closed "ecosystem" that could facilitate their transfer and laundering of hundreds of millions of dollars in victim money, all under the auspices of an operational cryptocurrency.

Equally troubling is how Kwok and Je responded when the Government seized substantial fraud proceeds that purportedly "backed" the Himalaya Exchange's digital assets. First, despite the seizures, Kwok, Je, and others blatantly lied to "customers" of the Exchange by deliberately hiding the fact of the seizures. In the months since the Government's seizures—and to this day—the Himalaya Exchange website has consistently represented that HDO is backed by a "Reserve consisting of USD and cash-equivalent assets" when, in fact, it is not. *See* Ex. A at ¶ 24(b). Second, following the Government's seizures, Kwok adapted yet again to continue his fraud scheme—by moving the Himalaya Exchange operations, and its money, to the UAE so it will be beyond the "long arm jurisdiction of the U.S." (*See* gnews.org/articles/949854.)

Thus, even after the SEC put a stop to the GTV Private Placement, Kwok found ways to continue to offer the stock. And even after the U.S. Government seized proceeds under the control of entities associated with the Himalaya Exchange, Kwok has taken steps to move victim money abroad.[17]

Although the charged fraud scheme involves ongoing fraud vehicles, including G|CLUBS and the Himalaya Exchange, Kwok's greed is insatiable. Kwok continues to invent and promote new "investment opportunities" for his victims. Beginning at least in February 2023, and as described above, Kwok began to promote the "A10"—yet another sale of an amalgam of stock and digital assets that Kwok promises will make his investors rich. This new vehicle for Kwok's fraud comes *after* the SEC stopped the GTV Private Placement, *after* Kwok-affiliated bank accounts were shuttered, *after* numerous Kwok-affiliated entries received grand jury subpoenas, and *after* Government seizure warrants secured $630 million of Kwok and Je's fraud proceeds. Despite all of that, Kwok continues to create economic havoc and harm victims. There can be no reasonable assurance that Kwok will stop his criminal conduct due to pretrial conditions. Simply put, there are no conditions of release that the Court can impose that will protect the community from severe economic harm at Kwok's hands.

[17] Kwok's statements about moving money abroad are corroborated by other evidence in this case. For example, travel records reflect that two of Kwok's co-conspirators, who have worked for Kwok-controlled entities for years in finance and bank-related roles, recently spent more than a month in Abu Dhabi for work.

C. Kwok Presents a Danger of Obstruction

"[O]bstruction poses a danger to the community," and where there is a risk that such activities will continue, pretrial detention may be appropriate. *United States v. Stein*, No. 05 Cr. 888 (LAK), 2005 WL 8157371, at *2 (S.D.N.Y. Nov. 14, 2005). Indeed, the Second Circuit has been clear that "obstruction of justice has been a traditional ground for pretrial detention by the courts." *United States v. LaFontaine*, 210 F.3d 125, 134 (2d Cir. 2000). Thus, where, as is the case here, there is a "a *serious* risk of obstruction in the future," detention is appropriate where no court-imposed conditions can reasonably protect from that risk. *United States v. Madoff*, 586 F. Supp. 2d 240, 250 (S.D.N.Y. 2009).

This Court need look no further than the findings of the U.S. bankruptcy judge in Connecticut to conclude that Kwok poses a serious risk of future obstruction if released. Indeed, even after the bankruptcy court imposed a temporary restraining order on Kwok, Kwok and the followers under his control continued to threaten and harm the bankruptcy Trustee, his family, and his law firm, Paul Hastings. Kwok also organized protests, which reportedly resulted in physical assaults, including of one of Kwok's critics and of a friend of a Kwok critic who happened to be at the protest site. It is important to emphasize that Kwok has engaged in, and encouraged, these obstructive and dangerous actions in response to *civil* cases—that is, cases that have merely threatened Kwok's assets. The stakes of a criminal case are much more significant, particularly given the strength of the evidence and the length of imprisonment Kwok is facing. The risks that Kwok will endeavor to obstruct here—and more dangerously—are gravely serious.

With respect to obstruction connected to victims of his criminal fraud, Kwok has already intimidated and threatened witnesses. These threats have frightened many and the Government has evidence that others who have similarly been victimized by Kwok have been reluctant to speak up, for fear of Kwok's retribution and his ability to foment anger at anyone who complains.

If released, Kwok is also likely to continue to obstruct in this particular case. The Government believes Kwok will continue to funnel his assets, and evidence, beyond the reach of the U.S. Government. Kwok's enterprise has already done this. As explained in the Indictment, co-defendant William Je attempted to move $46 million in fraud proceeds to the UAE to avoid further Government seizures. *See* Ex. A at ¶ 23. As discussed above, Kwok recently stated that the Himalaya Exchange would continue on that same path to avoid the "long arm jurisdiction" of the United States. Kwok is extremely sophisticated and savvy regarding electronically stored information. As the bankruptcy court found, Kwok uses single-use, or "burner," cellphones, which function (in part) to conceal Kwok's communications. Moreover, in October 2019, in connection with an unrelated investigation of Kwok, the FBI executed a search warrant on Kwok's New York City penthouse. During that judicially-authorized search, the FBI recovered approximately 252 electronic devices (*i.e.*, cellphones, hard drives, flash drives, computers, routers, audio pens, and voice recorders, among other devices), including approximately 96 cellphones, approximately 44 of which were located inside Faraday bags[18] in safes. Another approximately six iPhones were maintained in a Faraday bag inside a desk drawer. The Government contends that, if released,

[18] A faraday bag is a type of shielding device or enclosure that blocks the passage of radio frequency emissions and is used to, among other things, prevent electronic devices from electronic surveillance by blocking the transmission of radio waves that may be used to intercept or listen in on communications.

Kwok is likely to delete, encrypt, or transfer electronic evidence that the Government is still identifying and pursuing. Kwok's history demonstrates a significant level of sophistication and a willingness to flout court orders that would prohibit him from obstructing witnesses, moving money, or destroying evidence. The only way to mitigate such risks, and keep witnesses safe, is to order Kwok detained pending trial.

D. Kwok is A Flight Risk

Kwok presents a substantial risk of flight and should be detained for this reason alone. His connections to the United States are limited. He emigrated to the United States in 2015, then made several trips abroad before applying for asylum in 2018. That application remains pending. Kwok has no other status in the United States. If his asylum application is denied, he would no longer be legally present. Kwok's connections to the United States consist primarily of his vast series of business entities that are instrumentalities of his fraud scheme. All of those businesses can be operated remotely. Kwok's media appearances are virtual; he can make recorded statements from nearly anywhere, and can use the Internet to attract further victims of his fraud.

While Kwok's connections in the United States are limited, he has substantial connections and resources abroad. His adult son and his co-defendant, Je, both live in the United Kingdom. Importantly, Kwok has an extensive network of loyal followers dispersed throughout the world. He has assets secreted in Switzerland, the UAE, the United Kingdom, and elsewhere. Kwok can easily re-plant his life in another country beyond the reach of U.S. law enforcement. Indeed, as mentioned, Kwok may be in the process of doing that at present. Kwok further appears to be moving a portion of his criminal operations to the UAE.

Moreover, Kwok has an extremely powerful incentive to flee. Kwok is facing charges that, in total, carry a statutory maximum sentence of more than 100 years in prison. Under the United States Sentencing Guidelines, his advisory Guidelines range—based on the presently charged conduct alone—is the statutory maximum. And the evidence of Kwok's guilt is overwhelming, as documented in the detailed Indictment and described above. Given the weight of the evidence and the expected length of the potential sentence, any individual would be highly incentivized to flee; with Kwok's lack of ties to the United States, his ties abroad, and the prospect of likely deportation after serving his sentence, the incentives to flee are even greater.

Kwok has the means to escape from the United States, even while subject to strict pretrial supervision. Kwok has assets located elsewhere, including a blue-water capable yacht, and a private jet aircraft, which is currently believed to be in the United Kingdom.

E. There Are No Conditions or a Combination of Conditions Which Can Assure the Court that the Community Will Be Safe and the Defendant Will Not Flee

There are no conditions that can be imposed to satisfy the Court that Kwok will neither flee nor pose a danger to the community.

First, Kwok is unable to pledge assets to the Government as a security against flight. Kwok has filed for bankruptcy and declared less than $100,000 in assets. The Government believes that declaration to be untrue, but regardless, Kwok's obfuscation and his pending bankruptcy case mean that, if Kwok were to flee, the Government would at best be in a long of line of creditors seeking to liquidate Kwok's limited, and hotly contested, estate.

Second, ankle-bracelet monitoring is insufficient. Bracelets can easily be removed, and given the defendant's vast (hidden) resources and strong incentives to flee, do nothing more than reduce his head start should he decide to cut the bracelet and flee. *See United States v. Freeman*, 21 Cr. 88 (JSR) (S.D.N.Y. Feb. 19, 2021) (noting during bail appeal that "what about the fact that it is well established that electronic monitoring, even before the pandemic, was often not adequate to secure someone's presence? I must have had . . . in my 25 years on the bench, 100 cases in which someone was under electronic monitoring, yet still managed to go other places. . . . Anyone who knows the technology of electronic monitoring knows that it is far from foolproof"); *United States v. Zarger*, No. 00 Cr. 773, 2000 WL 1134364, at *1 (E.D.N.Y. Aug. 4, 2000) (rejecting defendant's application for bail in part because home detention with electronic monitoring "at best . . . limits a fleeing defendant's head start"); *see also United States v. Casteneda*, No. 18 Cr. 047, 2018 WL 888744, at *9 (N.D. Cal. Feb. 2018) (same); *United States v. Anderson*, 384 F. Supp.2d 32, 41 (D.D.C. 2005) (same); *United States v. Benatar*, No. 02 Cr. 099, 2002 WL 31410262, at *3 (E.D.N.Y. Oct. 10, 2002) (same). It would also be ironic for the defendant to be confined, in a home surrounded by lavish luxury items that he likely purchased with the proceeds of his crimes.

Third, to the extent the defendant argues that guards can serve as proto-U.S. marshals to ensure he does not flee, that proposal too should be rejected. At the outset, "there is a debate within the judiciary over whether a defendant, if [they are] able to perfectly replicate a private jail in [their] own home at [their] own cost, has a right to do so under the Bail Reform Act and the United States Constitution." *United States v. Valerio*, 9 F. Supp. 3d 283, 292 (E.D.N.Y. 2014) (Bianco, J.) (collecting cases). Moreover, courts have been rightfully troubled by private jail proposals which, "at best 'elaborately replicate a detention facility without the confidence of security such a facility instills.'" *United States v. Orena*, 986 F.2d 628, 632 (2d Cir. 1993) (quoting *United States v. Gotti*, 776 F. Supp. 666, 672 (E.D.N.Y. 1991) (rejecting private jail proposal)). The Second Circuit has noted that it was "troubled" by the possibility of "allow[ing] wealthy defendants to buy their way out by constructing a private jail." *United States v. Banki*, 369 Fed. App'x 152, 153-54 (2d Cir. 2010) (internal quotation marks omitted)). At bottom, if the defendant's appearance can only be assured through use of round-the-clock guards, the defendant belongs in a federal detention center, not released under bail conditions that effectively create a private prison of one. *See United States v. Zarrab*, No. 15 CR 867 (RMB), 2016 WL 3681423, at *12 (S.D.N.Y. June 16, 2016) ("What more compelling case for an order of detention is there than a case in which only an armed guard and the threat of deadly force is sufficient to assure the defendant's appearance?" (quotation and citation omitted).)

Fourth, any offer by the defendant of a so-called "waiver of extradition" should be summarily rejected. Such waivers provide no assurance whatsoever as many courts have recognized. *See, e.g.*, *United States v. Morrison*, No. 16-MR- 118, 2016 WL 7421924, at *4 (W.D.N.Y. Dec. 23, 2016); *United States v. Kazeem*, No. 15 Cr. 172, 2015 WL 4645357, at *3 (D. Or. Aug. 3, 2015); *United States v. Young*, Nos. 12 Cr. 502, 12 Cr. 645, 2013 WL 12131300, at *7 (D. Utah Aug. 27, 2013); *United States v. Cohen*, No. C 10-00547, 2010 WL 5387757, at *9 n.11 (N.D. Cal. Dec. 20, 2010); *United States v. Bohn*, 330 F. Supp. 2d 960, 961 (W.D. Tenn. 2004); *United States v. Stroh*, No. 396 Cr. 139, 2000 WL 1832956, at *5 (D. Conn. Nov. 3, 2000); *United States v. Botero*, 604 F. Supp. 1028, 1035 (S.D. Fla. 1985). Any defendant who signs such a purported waiver and then flees will assuredly contest the validity and/or voluntariness of the waiver, and will get to do so in the jurisdiction to which he fled.

Fifth, there are no conditions which can prevent the defendant from refraining from committing further crimes or obstructing justice. Kwok's bankruptcy proceeding—and his obstructive conduct in litigation that led to an order of contempt that, in turn, prompted Kwok's claim of bankruptcy—underscore Kwok's complete and total lack of respect for the law and court orders. This Court can have no reasonable assurance that Kwok will regard any conditions of pretrial release differently. Kwok has not been dissuaded from continuing his brazen fraud despite regulatory involvement by the SEC and seizures by the Government of $630 million. Kwok's threats to witnesses and others involved in the judicial process, pose a particularly pernicious danger by threatening the sanctity of the judicial process. Kwok's critics have been attacked merely for voicing displeasure with his activities. Kwok now faces the prospect of witnesses coming forward to testify against him during a *criminal trial*. The stakes are higher, and the risks that Kwok poses—given the heightened seriousness of this litigation—are substantially increased. Ordering Kwok not to obstruct justice, commit crimes, or communicate with co-conspirators and witnesses is an insufficient remedy. To the contrary, if released pretrial, Kwok will have every incentive to disregard this Court's orders, as he has with other courts, and violate his conditions through flight, obstruction, fraud, and by covert commands to his vast network of followers who follow his orders.

V. Conclusion

Kwok is an extraordinary defendant, with limited ties to the United States and the resources to flee from this country and from the legal consequences of his fraud. He poses an ongoing danger to the community and the judicial process to which he is now exposed. There are no conditions or combination of conditions which can satisfy the Court that the community will be safe, or that the defendant will appear, if he is released. The defendant should be detained pending trial.

Very truly yours,

DAMIAN WILLAIMS
United States Attorney

By: /s/
Ryan B. Finkel
Juliana N. Murray
Micah F. Fergenson
Assistants United States Attorney
(212) 637-6612 / 2314 / 2190

Enclosures

Copy to: Guy Petrillo and Josh Klein, *counsel for the defendant Ho Wan Kwok*
Stephen Boose Pretrial Services, Southern District of New York

EXHIBIT 7

U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

April 3, 2023

VIA ECF
Hon. Analisa Torres
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: ***United States v. Ho Wan Kwok, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal,"*** **S1 23 Cr. 118 (AT)**

Dear Judge Torres:

The Government writes in opposition to the memorandum in support of pretrial release submitted by Ho Wan Kwok, a/k/a "Miles Guo," a/k/a "Miles Kwok," a/k/a "Guo Wengui," a/k/a "Brother Seven," a/k/a "The Principal" ("Kwok" or the "defendant"). ("Def. Mem." or "defendant's Memorandum") (Dkt. 24.) As detailed in the Government's March 15, 2023 letter seeking detention ("Gov't. Ltr." or the "Letter") (Dkt. 7), Kwok is a unique defendant with extensive foreign contacts and tens of millions of dollars in resources that he can leverage to flee the United States. The defendant also poses a significant ongoing danger to the community and his obstructive acts and intimidation present a clear threat to the judicial process.

Indeed, since the Government filed its Letter, the evidence supporting detention has continued to mount. Kwok lied to Pretrial Services in an effort to conceal his wealth and employment. Kwok even violated the rules and regulations at the Brooklyn Metropolitan Detention Center ("MDC"), where he is currently detained. Moreover, the judicially authorized searches of his co-defendant's condominium and Kwok's multi-million-dollar residences revealed additional evidence of the defendant's significant resources and abilities to flee. The defendant's Memorandum largely ignores these facts, and draws (false) equivalencies with other cases. Kwok's proposed defense bail package is woefully inadequate to address his substantial foreign contacts and the strong incentives and significant resources he has to flee. It does not at all mitigate the pervasive danger Kwok's release presents to the community and to the judicial process. No bail package could.

Pretrial Services is correct. There are no conditions, or combination of conditions, that can reasonably assure the Court that the defendant will appear in court and that the public will be safe from harm. The Court should adopt the recommendation of Pretrial Services. Pretrial detention is absolutely appropriate this in this case.

I. The Pretrial Services Report

On March 15, 2023, during his Pretrial Services interview, Kwok advised that he has been "unemployed since the end of 2016." He claimed total assets in the "approximate amount of $10,000 . . . that was *not* liquid cash," but comprised of the value of "two cellphones and clothing" (emphasis added). Kwok denied owning property or vehicles. He claimed that his Greenwich, Connecticut estate, which he valued at $9 million, is owned by his wife, and that his Manhattan penthouse is owned by his son. Kwok estimated his monthly expenses (food, clothes, cellphones and "bodyguards") to be $100,000, which expenses he represented were paid for by his family. The defendant also stated that he filed for bankruptcy in 2022. Kwok stated that, before he became "unemployed," he worked as a "grand representative" for his family businesses, from approximately 2000 through 2014. As Pretrial Services noted in its report, Kwok was unable to "estimate his income" for his work as a "grand representative."

Regarding his connections to the United States, Kwok informed Pretrial Services that he had not left the country for the past six years, but said that he had traveled to approximately "fifty" different countries between 1991 and 2017. Kwok noted that his wife and daughter live in the United States and emigrated from China, while his son lives in London. No members of Kwok's immediate family are U.S. citizens. Further, Pretrial Services was unable to corroborate the information Kwok provided about his family, because Kwok did not provide the correct phone number for his daughter.

Pretrial Services identified nine risk factors evidencing Kwok's risk of nonappearance: possession of a passport, extensive history of foreign travel, family ties outside the United States, his status as a foreign citizen who may be subject to removal, mental health history, use of aliases, multiple reported residences, unemployment, and the presence of unverified assets. Pretrial Services also identified the nature of the charged offenses as a risk factor suggesting danger to the community.

Pretrial Services concluded that there are "no conditions or combination of conditions that will reasonably assure the appearance of the defendant at future proceedings . . . . [and] respectfully recommend[ed] the defendant be detained."

II. Materials Recovered on March 15, 2023 Pursuant to Search Warrants

On March 15, 2023, the Federal Bureau of Investigation executed a series of search warrants at premises, including (i) Kwok's Manhattan Penthouse (where he was arrested); (ii) Kwok's 50,000 square-foot mansion in Mahwah, New Jersey; and (iii) Kwok's seven-bedroom, approximately 12,000 square-foot estate in Greenwich, Connecticut. The FBI also executed a search warrant at the Manhattan condominium of Kwok's co-defendant, Yanping Wang, who was arrested the same day. Among other things, the FBI recovered the following materials:

- Kwok's Mahwah Mansion:

  - Approximately $394,000, €5000, HK$188,05, [1] and ¥250 in cash, and approximately 156 gold coins (alongside a receipt, which indicated that the coins were valued at approximately $109,555), which were found inside a safe located in a closet that was attached to what appears to be Kwok's dressing room. (Ex. A.) That dressing room stored approximately 30 Brioni custom-made suits, each of which bore the hand-stitched words "Brioni for Miles Kwok" inside the jackets.

  - A copy of Kwok's expired United Arab Emirates passport. (Ex. B.)

  - A cellphone scrambler.[2]

  - 10 computers or laptops; 16 external media storage devices (USB and hard drives); and nine cellphones.

- Kwok's Manhattan Penthouse

  - Inside Kwok's bedroom, the FBI discovered a cellphone that was concealed underneath Kwok's Duxiana-brand mattress. (Ex. C.)

  - 15 other cellphones, 14 external media storage devices (USB and hard drives), and four computers.

  - Gold pins with symbols of the Chinese Communist Party. (Ex. D.)

- Kwok's Greenwich Estate:

  - A 2021 a Lamborghini Aventador, which was purchased with fraud proceeds.

  - Three computers or laptops, five cellphones, and 13 USB drives.

- Co-defendant Wang's Condominium:

  - Kwok's expired Republic of Vanuatu Passport and Vanuatu non-citizen identification card, which were kept in Wang's safe. (Ex. E.) Stamps in the passport reflect that Kwok traveled to England in March 2017 using his Vanuatu Passport, and further reflect that Kwok was entitled to remain in

[1] HK$188,050 is worth approximately $23,900.

[2] A cellphone scrambler is an external device that attaches to a cellphone. Cellphone scramblers are designed to defeat Government wiretaps and other eavesdropping technologies. Scramblers work by converting voice into non-interpretable analog noises for transmission over the phone network. A receiver on the other end of a call re-converts the analog signals to understandable speech.

England for six months. Wang's safe also contained Kwok's expired and currently valid Hong Kong passports. The expired Hong Kong passport reflected substantial foreign travel by Kwok. The valid Honk Kong passport reflects travel to England, Scotland, the Bahamas, and Japan in 2016.

- Approximately $138,000 in U.S. currency and additional foreign currency, located in the above-described safe.

- Printed documents that reflect bank account balances as of March 13, 2023 (*i.e.*, two days before the defendants' arrests) for various entities that the Government alleges Wang managed and controlled, which are all associated with the charged fraud. Those documents reflect balances of at least approximately $34 million.

III. The Defendant's Arguments for Release Should be Rejected

The defendant's Memorandum responds to the Government's March 15, 2023 Letter by proposing a set of conditions pursuant to which Kwok believes pretrial release would be appropriate. The defendant's Memorandum further seeks to draw parallels between this case and other fraud cases where pretrial detention was not ordered. Finally, the defendant attempts to rebut the Government's detailed recitation of factors outlined in its March 15, 2023 Letter demonstrating that Kwok is a risk of flight, poses a danger to the community, and is likely to obstruct justice. As explained below, the defendant's arguments should be rejected.

A. The Defendant's Proposed Bail Package Is Inadequate

Kwok proposes a bail package of eight conditions: (i) home detention at his Greenwich estate or an "other" unidentified location approved by the Court; (ii) a $25 million bond secured by $5 million cash and two unidentified adult cosigners, "one of whom is not a family member;" (iii) "24/7 surveillance by a security company" with "at least one licensed and qualified guard;" (iv) GPS monitoring; (v) surrender of travel documents and surrender of his wife and daughter's travel documents; (vi) limitation on Kwok's ability to enter financial transactions; and (vii) no communications with co-defendants outside the presence of counsel.

First, the defendant proposes that he be released on "home detention" to his seven-bedroom, 12,000 square-foot Greenwich, Connecticut estate, pictured below, which has a pool, private tennis court, "living pavilion," and three external fireplaces:

The Greenwich estate was purchased in February 2020 by Greenwich Land, LLC—*an entity that has received millions of dollars in fraud proceeds*. Specifically, the Government's investigation has revealed that between August 2020 and April 2021, co-defendant Kin Ming Je, a/k/a "William Je" (the financial architect of the fraud) transferred approximately $34 million of fraud proceeds, primarily raised through the Farm Loan Program (*see* Indictment ¶ 14), to entities that are 100% owned by Kwok's family members; those transfers included an approximately $5 million transfer in October 2020 to Greenwich Land, LLC.[3] To say the least, it would be inappropriate for Kwok to live in the palatial Greenwich estate that he maintained with the proceeds of his fraud as a means of avoiding pretrial detention.

Second, the defendant's bail proposal does not identify the source of the $5 million in cash that he intends to use to secure the proposed $25 million bond. That omission is significant, given that the defendant filed for bankruptcy and informed Pretrial Services that he only has assets worth $10,000, consisting of "two cellphones and clothing." Given those representations, the fact that the defendant now claims to have access to such a large amount of cash raises questions about the legitimacy of those funds and is further evidence of the defendant's lies to Pretrial about his assets. As noted above, although the defendant told Pretrial Services that he did not have any cash assets he in fact had $394,000 in his safe in his Mahwah Mansion. In any event, given Kwok's bankruptcy filing and his extensive subterfuge in hiding his fraud proceeds, any bond amount—

[3] Notably, in Kwok's bankruptcy proceeding, the court-appointed Chapter 11 Trustee filed for a declaratory judgment that Greenwich Land is nothing more than another alter ego used by Kwok to conceal his assets. *In re Ho Wan Kwok, et al.*, No. 22-05003 (JAM), Dkt. 1604 (D. Conn. Bankr. Mar. 27, 2023.) In support of the motion, among other things, the Trustee cited an August 2020 email from Greenwich Land's real estate broker in which the broker stated that the Greenwich estate was "bought by Miles [Kwok] under Greenwich Land." (*Id*. Ex. 41.)

secured or not—is likely to be based entirely on assets that are encumbered by bankruptcy proceedings, forfeitable as proceeds of his fraud, or both.[4] The defendant's bond proposal is therefore meaningless. Kwok pledging money that is not his (or is subject to the Chapter 11 proceedings) does not any provide "moral suasion" against his flight. *See United States v. Zhang*, No. 22-CR-208-4 (CBA), 2022 WL 17420740, at *4 (E.D.N.Y. Aug. 3, 2022) ("Giving up investment property with unclear ownership that may already be in some jeopardy may seem like a small price to avoid life imprisonment") (citing *United States v. Martinez*, 151 F.3d 68, 71 (2d Cir. 1998) (discussing bond package in terms of its "ability to exercise moral suasion" over the defendant "should he decide to flee"), *aff'd*, 55 F.4th 141 (2d Cir. 2022)).[5]

Third, the defendant proposes that he be monitored—at all times—by private security. Kwok's argument that pretrial release would be appropriate only if he were always surveilled by armed guards is tantamount to a concession that he must be detained. He is simply arguing that he be detained in his Greenwich estate, rather than in the federal system, where those without access to his level of resources are held. *United States v. Banki*, 369 Fed. App'x 152, 154 (2d Cir. 2010) (explaining private security "conditions might be best seen not as specific conditions of release, but simply as a less onerous form of detention available only to the wealthy"). Thus, this Court should be troubled by the defendant's private jail proposal which, "at best 'elaborately replicate[s] a detention facility without the confidence of security such a facility instills.'" *United States v. Orena*, 986 F.2d 628, 632 (2d Cir. 1993) (quoting *United States v. Gotti*, 776 F. Supp. 666, 672 (E.D.N.Y. 1991) (rejecting private jail proposal)).

In support of his private armed-security proposal, the defendant points to *United States v. Sabhani*, 493 F.3d 63 (2d Cir. 2007), but that case is distinguishable. (Def. Mem. at 23-24.) In *Sabhani*, the Government identified conditions it believed would mitigate against a risk of flight, which included armed security. *Id*. at 65. The Government does not similarly agree here. Moreover, since the 2007 *Sabhani* decision, the Second Circuit and district courts have cast doubt on the feasibility of private security arrangements.[6] Even the defendant concedes that the Court

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[4] Indeed, recently the federal bankruptcy court has issued a series of orders temporarily restraining and enjoining a series of Kwok-related entities (generally held in the names of is children) from encumbering, transferring, alienating, dissipating, paying over, or assigning any property and/or assets. (Ex. G (collecting orders).)

[5] It is also telling that that the defendant has not yet identified any proposed co-signers to the Court or the Government. Sureties must have a "net worth which shall have sufficient unencumbered value to pay the amount of the bail bond." 18 U.S.C. § 3142(c)(1)(B)(xii); *see United States v. Batista*, 163 F. Supp. 2d 222, 225-26 (S.D.N.Y. 2001) ("a defendant must [also] show that the proposed sureties exercise moral suasion to ensure the defendant's presence at trial.").

[6] The defendant relies on *Sabhani*, claiming that case supports the defendant's contention that a defendant may not be subject to pretrial detention "where the defendant's wealth *is the reason* the defendant is deemed a flight risk." (Def. Mem. at 24.) This argument is a strawman. The Government is not contending that Kwok's wealth is the only reason he is a flight risk, nor is risk of flight the only reason he should be detained. For similar reasons, the defendant's reliance on *United States v. Weigand*, 492 F.Supp.3d 317, 319 (S.D.N.Y. 2020), should be discounted. *Weigand* concerned a foreign-national who was initially detained and later released because the primary risk of flight concerned his wealth. *Id*. at 318. There were no allegations of ongoing

of Appeals is clear that the "Bail Reform Act does *not* permit a two-tiered bail system in which defendants of lesser means are detained pending trial while wealthy defendants are released to self-funded private jails." *United States v. Boustani*, 932 F.3d 79, 82 (2d Cir. 2019) (emphasis added); *Banki*, 369 Fed. App'x at 153-54 (stating the Court was "troubled" by the possibility of "allow[ing] wealthy defendants to buy their way out by constructing a private jail."); *United States v. Cilins*, No. 13 Cr. 315 (WHP), 2013 WL 3802012, at *3 (S.D.N.Y. July 19, 2013) ("'it is contrary to underlying principles of detention and release on bail that individuals otherwise ineligible for release should be able to buy their way out by constructing a private jail, policed by security guards not trained or ultimately accountable to the Government, even if carefully selected'" (quoting *Borodin v. Ashcroft*, 136 F. Supp. 2d 125, 134 (E.D.N.Y. 2001))); *United States v. Valerio*, 9 F. Supp. 3d 283, 292 (E.D.N.Y. 2014) (Bianco, J.) ("There is nothing in the Bail Reform Act that would suggest that a defendant (or even, hypothetically, a group of defendants with private funding) has a statutory right to replicate or construct a private jail in a home or some other location.").

It is reasonable for courts to be reluctant to allow wealthy defendants to finance their own security as an alternative to pretrial detention.[7] That reluctance is also driven by real-world uncertainties, such as whether defendant-funded private security would, as a practical matter, be accountable to the courts, and whether the guards would have the authority to use force to prevent the defendant from escaping, which could expose them to civil liability. *See Valerio*, 9 F. Supp. 3d at 294 ("The questions about the legal authorization for the private security firm to use force against defendant should he violate the terms of his release, and the questions over whether the guards can or should be armed, underscore the legal and practical uncertainties—indeed, the imperfections—of the private jail-like concept envisioned by defendant, as compared to the more secure option of an actual jail."). As the Government argued in its March 15, 2023 Letter, if the defendant's appearance can only be assured through use of round-the-clock armed guards, the defendant belongs in a federal detention center, not released under bail conditions that effectively create a private prison for one in a luxurious Greenwich estate. *See United States v. Zarrab*, No. 15 CR 867 (RMB), 2016 WL 3681423, at *12 (S.D.N.Y. June 16, 2016) ("What more compelling case for an order of detention is there than a case in which only an armed guard and the threat of deadly force is sufficient to assure the defendant's appearance?" (quotation and citation omitted).)

Fourth, as the Government argued in its March 15, 2023 Letter, GPS monitoring is substantially inadequate. The technology is far from foolproof and will do little to prevent Kwok's flight—a sophisticated international traveler with reams of cash, cellphone scramblers, private aircraft, and a network of supporters located across the globe. *See United States v. Freeman,* 21 Cr. 88 (JSR) (S.D.N.Y. Feb. 19, 2021) (ordering detention in $2.3 million money laundering case and noting "electronic monitoring and the like, as indicated previously, those are far from perfect devices for preventing flight"); *see also* Gov't Ltr. at 22 (collecting cases).

Fifth, this Court should have little faith that the defendant will surrender all of his travel documents and refrain from obtaining new ones. Kwok's access to travel documents is

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danger or obstruction, and Judge Rakoff's October 5, 2020 opinion cited the "unique circumstances of the COVID-19 pandemic" as the basis for pretrial release. *Id.* at 319.

[7] Here, and generally in his Memorandum, the defendant does not identify the source of funds he intends to use to finance 24/7 private security or other aspects of his proposed pretrial detention.

remarkable. During an interview on April 19, 2017, Kwok claimed that he "own[s] about 11 passports," including "three passports of some middle-east countries."[8] Kwok's statement is corroborated by the copy of the UAE passport that the FBI located in Kwok's Mahwah Mansion (although the actual passport has not been not located), and Kwok's Republic of Vanuatu passport located in his co-defendant's safe.[9] Although the Vanuatu and UAE passports are expired and other recovered documents suggest Kwok may no longer have Vanuatu citizenship, these materials demonstrate Kwok's ability to acquire travel documents when he needs them. The defense is simply wrong to suggest that Kwok (and his wife and daughter) could not "logistically manage" to travel outside the United States based on a court order to surrender travel documents and not obtain new ones. (Def. Mem. 13). Given Kwok's one-time access to up to 11 passports, and the fact that Kwok and his family have historically traveled internationally on various private air- and seacrafts, the defendant's assurances to this Court are meritless. Notably, and particularly troubling, Kwok did not inform Pretrial Services about his Vanuatu or UAE passports. Concealing his travel documents from Pretrial Services is reason enough to order pretrial detention, and it puts to lie any claim that the Court can trust the defendant to abide by conditions of release.

Further, it is not credible for the defense to contend that Kwok cannot travel at all, due to his fear of repatriation to China. According to the defense's motion, Kwok fled Hong Kong on January 1, 2015, has never returned due to the danger that his returning to China would pose, and cannot travel internationally due to fear of repatriation to China. (Def. Mem., at 7.) But Kwok *has* traveled *internationally* since he fled China—including using his Vanuatu passport. The claim that Kwok can be nowhere except the United States, to avoid "the long reach of the CCP," is overblown and contravened by Kwok's extensive travel history. (Def. Mem. at 13.)

Sixth, the condition that the defendant refrain from any financial transactions (without permission from the Government or the Court) is hollow and does nothing to insulate the public from Kwok's ongoing economic harm. Due to his bankruptcy, Kwok is already effectively subject to this condition. However, as a review of the bankruptcy docket indicates, Kwok has acted through others and a network of shell companies to conceal his assets and finances. Indeed, the Indictment itself establishes that Kwok engaged in financial transactions by directing others to act on his behalf. Moreover, Kwok has demonstrated a willingness to flout and undermine court orders, providing little assurance that this condition would have any impact on him. *In re: Ho Wan Kwok, et al.*, Chapter 11 Case No. 22-50073 (JAM) (Bankr. D. Conn. Jan. 11, 2023) (Dkt. 7, Ex. C, at 23 -29 (detailing interference with the Chapter 11 bankruptcy proceedings by Kwok and his followers despite the issuance of a temporary restraining order prohibiting such actions). Kwok's bankruptcy filing was, itself, an attempt to circumvent a New York State Supreme Court Judge's order subjecting Kwok to sanctions for failing to follow that court's orders. *See* PAX

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[8] Complaint Exhibit 1B, *HNA Grp. Co., Ltd., v. Guo Wengui*, No. 653281/2017, Dkt. No. 7 (NY Sup. Ct. Aug. 30, 2017) (English translation of April 19, 2017 interview between Kwok and Voice of America).

[9] Vanuatu is a small island nation in the South Pacific. It has been publicly reported that Vanuatu permits foreign nationals to acquire Vanuatu citizenship in exchange for investments in the country. *See* "Citizenship for sale: fugitives, politicians and disgraced businesspeople buying Vanuatu passports," The Guardian, dated July 14, 2021 (available at https://www.theguardian.com/world/2021/jul/15/citizenship-for-sale-fugitives-politicians-and-disgraced-businesspeople-buying-vanuatu-passports)

Lawsuit, No. 652077/2017, 2018 BL 236400, Dkt. 716. (N.Y. Sup. Ct. Feb. 9, 2022) (order directed Kwok to pay $134 million contempt fine). Indeed, the defendant has already violated this proposed condition by lying to Pretrial Services about his assets—during his interview, Kwok did not disclose the nearly $400,000 in cash and foreign currency he kept in a safe in his Mahwah Mansion, nor did he disclose other bank accounts he controls through intermediaries. Kwok's long and documented history of undermining the judicial process and his deception during his Pretrial Services interview demonstrate that this condition would have no impact on Kwok.

B. Detention in this Case is Consistent with Precedent

The defendant cites to several fraud cases where defendants were subject to pretrial conditions, even though substantial losses were alleged.[10] (*See, e.g.*, Def. Mem. at 1-2, 21-22.) The Government does not dispute that there are examples of cases in which defendants charged with serious economic crimes were granted bail. But the cases the defendant relies on are starkly different from the circumstances presented here by (1) Kwok's extensive foreign ties and minimal ties to the United States, and (2) the ongoing danger posed by Kwok's release. Courts in this District regularly order pretrial detention in cases concerning financial crimes where, such as here, the Government demonstrates that no conditions provide reasonable assurance the defendant will appear in court or the community will be safe. All the cases cited by the defense are distinguishable because they involved the Government's *consent* to pretrial release at the time of arrest,[11] and

[10] Several of the defendant's cited cases are an order of magnitude different in terms of alleged economic harm than the instant case. *United States v. Gulkarov, et al.*, No. 22 Cr. 20, (S.D.N.Y. 2022) concerned a $30 million healthcare fraud. *See id.*, Dkt. 1, at 3. The $100 million figure Kwok cites pertains to several interrelated cases. *See United States v. Akbar, et al.*, No. 20 Cr. 563, Dkt. 1, at 4 (S.D.N.Y. 2020) ("potential loss to USPS of up to $15 million"); *United States v. McFarland*, No. 17 Cr. 600 (NRB), Dkt. 20, at 4 (S.D.N.Y. 2017) ("defendant caused losses to at least seventy victim-investors, totaling more than $20 million dollars"). Kwok is charged with defrauding thousands of victims of more than $1 billion.

[11] The cases cited by Kwok where the Government ultimately sought pretrial remand were *United States v. McFarland*, *United States v. Madoff*, and *United States v. Belfort*. In *McFarland*, after the Government consented to pretrial release, on June 18, 2018, it sought detention because McFarland was charged with additional crimes while on release. Judge Buchwald granted the Government's motion. (*Id.*, Dkt. 43.) In *Madoff*, the Government consented to pretrial release on the day of Madoff's arrest. Nearly two weeks later, the Government sought remand, because it learned that Madoff had mailed expensive items to relatives and friends. When seeking remand, the Government conceded that mailing items did not violate "the specific conditions of bail" set in Madoff's criminal case. No. 09 Cr. 213, Dkt. 15, at 5 (SDNY Jan. 12, 2009). Ultimately, Magistrate Judge Ellis denied the Government's motion because, *inter alia*, "the Parties had agreed that the measures in place were adequate" to address concerns about flight. *Id.* at 9. In declining to find a serious risk of obstruction, the court considered only whether Madoff's mailing of assets to others constituted obstruction and whether those acts suggest a serious risk of future obstruction. *Id.* at 12. As to the potential ongoing danger, the court considered merely whether the "potential future dissemination of Madoff's assets would rise to the level of an economic hard cognizable under § 3142," not whether Madoff would continue to commit further crimes. *Id.* at 19. The record before this Court is starkly different. Kwok's obstructive efforts extend far beyond mailing some assets to family and friends. He has threatened witnesses, orchestrated harassment

involve defendants with substantially more ties to the United States.[12] By contrast, Kwok has continually lived in the United States for just five years (several of which were during the height of the COVID-19 pandemic, when international travel was limited). For more than four of those five years, Kwok used the United States as the staging ground to run a billion-dollar fraud enterprise. Further, none of the cases Kwok cites concern defendants with the extensive history of harassment and deception that Kwok has exhibited,[13] let alone the ongoing economic harm Kwok seems adamant to continue inflicting, including by relocating his fraud operations and proceeds abroad to the UAE. Nor do those cases concern defendants with foreign ties anywhere close to the extent that Kwok has. As discussed above, Kwok claims to have had access to 11 foreign passports, has substantial foreign assets, has family abroad, has access to planes and seacraft, and is likely to be helped by his co-defendant, William Je, who is himself an international fugitive hiding in the UAE.

Nonetheless, there are ample examples of individuals charged with fraud and other similar crimes that have been detained over the last several years. Many such cases concern economic losses far smaller, and less complex, than Kwok's billion-dollar fraud. For example:

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campaigns directed at court-appointed officials, and circumvented court orders. (Gov't Lt. 12-16.) Moreover, here, the Government does not believe—as it did in Madoff—that conditions can be set which can ameliorate the risk of flight or danger. The *Belfort* docket is unclear as to why the Government ultimately sought detention and the disposition of the request.

[12] *See United States v. Bankman-Fried*, 22-cr-673 (S.D.N.Y. 2022) (American citizen born in the United States); *United States v. Hwang*, 22-cr-240 (S.D.N.Y. 2022) (58-year old naturalized American citizen present in the United States since childhood with a family of American citizens located in New Jersey); *United States v. Gulkarov, et al.*, No. 22-cr-20 (S.D.N.Y. 2022) (present in the United States for over 20 years with family in the U.S. including young children in the United States); *United States v. McFarland*, No. 17-cr-600 (S.D.N.Y. 2017) (American citizen born in the United States); *United States v. Tucker, et al.*, No. 16-cr-91 (S.D.N.Y. 2016) (same); *United States v. Madoff*, No. 1:09-cr-00213-DC-1 (S.D.N.Y. Dec. 11, 2008) (same); *United States v. Holmes et al*, No. 5:18-cr-00258-EJD-1 (N.D. Cal. June 15, 2018) (same); *United States v. Causey et al.*, No. 4:04-cr-00025-2 (S.D. Tex. Feb. 19, 2004) (same regarding Jeffrey Skilling); *United States v. Belfort, et al.*, No. 1:98-cr-00859-AMD-1 (E.D.N.Y. Sept. 4, 1998) (same).

[13] For these reasons *United States v. Bankman-Fried* is not analogous. In *Bankman-Fried*, during an appearance before Magistrate Judge Gorenstein, the Government consented to pretrial release due to the following factors, none of which are present here: (i) defendant waived extradition and voluntarily returned to the United States; (ii) no history of flight; (iii) family and community ties; (iv) diminished assets frustrating flight ability; and (v) a "marginal" concern of ongoing harm to the community because the defendant is no longer associated with FTX. No. 22 Cr. 673, Dkt. 36, at 6-8 (S.D.NY. Jan. 20, 2023) (transcript of initial appearance). Magistrate Judge Gorenstein found that the weight of the evidence favored pretrial detention but permitted pretrial release, given the parties' agreement, the defendant's U.S. citizenship with "very strong ties to this country in terms of growing up here and having family who currently lives here," and his inability to conduct future financial transactions due to his notoriety mitigating harms. *Id.*, at 13-14. Bankman-Fried's later use of a VPN and improper contact with a single witness does not come close to Kwok's obstructive conduct, concealment of assets, and danger presented by Kwok.

- *United States v. Celvin Freeman*, 21 Cr. 88 (JSR) (S.D.N.Y.) (defendant who resided in New Jersey was charged for laundering approximately $2.3 million in fraud proceeds for Ghanaian criminal enterprise and detained because of lack of legal status, strong ties to Ghana, attempted flight during arrest, and significant potential jail time). When ordering detention, Judge Rakoff observed, with respect to co-signers: "We're not relying on his assets; we're relying on the assets of others, and the kind of scheme that he has involved himself in suggests that his regard for other human beings is modest at most. As for electronic monitoring and the like, as indicated previously, those are far from perfect devices for preventing flight." (Feb. 19, 2021, Bail Hearing Tr. at 19-20)).

- *United States v. Fred Asante*, 21 Cr. 88 (JSR) (S.D.N.Y.) (defendant who resided in Virginia with his family was charged for laundering approximately $6.7 million in fraud proceeds for Ghanaian criminal enterprise and detained because of prior drug felony, prior flight to Ghana using a fake passport, access to substantial sums of money, and lack of disclosure to pretrial services).

- *United States v. Sheng-Wen Cheng*, 21 Cr. 261 (AJN) (S.D.N.Y.) (defendant who resided in Manhattan was charged with $7 million COVID-19 pandemic loan fraud and detained because defendant had no legal status, substantial access to financial means, strong family ties abroad, and crime involved use of stolen identities).

- *United States v. Muge Ma*, 20 Cr. 407 (RMB) (S.D.N.Y.) (defendant who resided in Manhattan and had legal permanent resident status in the United States was charged with attempted $20 million COVID-19 pandemic loan fraud and detained because he was a Chinese national with strong ties abroad, faced substantial prison time, and the crime involved fabricated documents).

- *United States v. Malhotra*, No. 19 Cr. 411 (ALC) (S.D.N.Y. May 7, 2020) (defendant, an Indian-national, charged with defrauding victims out of more than $3 million by promising false computer repair services, was detained based on defendant's risk of flight and lack of contacts to the United States).

- *United States v. Raniere*, 18-CR-204 (NGG), 2018 WL 3057702, at *7-8 (E.D.N.Y. June 20, 2018) (detaining defendant based upon flight risk where defendant had no declared assets but appeared to have access to enormous resources offered to be guarded by a private security company).

- *United States v. Ho*, No. 18-1641-cr, (Aug. 30, 2018 2d Cir. 2018) (affirming denial of pretrial release where Chinese-national defendant charged with $2.5 million bribery scheme).

- *United States v. Zarrab*, No. 15 Cr. 867 (RMB), Dkt. 41 (S.D.N.Y. June 16, 2016) (denying pretrial release and rejecting proposal of armed guards, $50 million PRB secured by $10 million cash, and GPS monitoring. Defendant was charged with various crimes related to violations of sanctions laws).

As with the above defendants, detention is appropriate here in light of Kwok's substantial means and motive to flee, his demonstrated history of obstruction, and the ongoing danger he poses if released.

C. The Government Has Demonstrated by a Preponderance of the Evidence that Kwok is a Flight Risk

The defense's attempts to frame Kwok's personal circumstances as reasons why he is unlikely to flee are unavailing and ignores or minimizes key facts. The defense ignores, and therefore does not significantly dispute, the strength of the Government's evidence and the seriousness of the charges in the Indictment. The defense pays little attention to the decades-long potential prison sentence Kwok faces as a result of his crimes and the powerful motive this creates for him to flee the United States, especially since his connections here are tenuous. At most, Kwok claims that the presence of his wife and daughter in the United States incentivizes him to remain. (Def. Mem. 13.) But this overlooks the fact that in 2015 Kwok left his wife and daughter to enter the United States, *see* Def. Mem. at 7 and 22, and ignores that Kwok's son presently lives in the United Kingdom. Kwok cannot claim on the one hand that his daughter's and wife's presence in the United States incentivizes him to remain and that, on the other hand, his son's presence in a foreign country does exert any pull to leave.

Kwok's argument that he will remain in the United States relies on the proposition that he will not travel, at all, because of security concerns due to the threat posed to him and his family by the CCP. (*See* Def. Mem. at 14 ("Kwok [has] real and substantial security concerns about the threat posed by the CCP were he to travel abroad."), *id.* at 22 ("threats that are far more likely to become realities should Mr. Kwok flee the United States").) This argument does not withstand scrutiny. Kwok claims to have fled China in 2015 because he feared arrest by the CCP. Yet Kwok continued to travel internationally, despite the CCP's attempts to repatriate him. (*See* Gov't Ltr. at 2.) It may be that Kwok has not traveled internationally since applying for asylum in 2017, since the application precludes it, but Kwok's asylum application is seriously jeopardized in light of the Indictment. With an asylum denial looming, his incentive to remain in the United States completely dissolves.[14]

Next, the defense argues that Kwok lacks the financial means to flee. This argument also collapses under closer inspection. If it is true, as the defense claims, that Kwok has the ability to put forth a $5 million cash bond, cover the expenses of round-the-clock armed guards, and cover

[14] Kwok conclusory suggests that, even if he were convicted, he would be "eligible" to remain in the United States pursuant to the Convention Against Torture. (Def. Mem., at 15.) Even if granted that protection, which is not certain, the Convention does not require that those eligible remain in the United States. *See Lin v. U.S. Dep't of Just.*, 432 F.3d 156, 161 (2d Cir. 2005) (affirming denial of application for relief under the CAT to prevent return to China). Those protected under CAT may be removed to third-party countries. *Mudiangomba v. Holder*, 372 F. App'x 161, 164 (2d Cir. 2010) (affirming decision removing individual to alternative country). In any event, the theoretical possibility that Kwok, after conviction, and after serving a prison term, *might* be eligible to remain in the United States hardly suggests he is incentivized to remain now while subject to substantial criminal consequences. Kwok's theoretical CAT protection does not come close to rebutting the factors offered by the Government demonstrating by a preponderance Kwok's extraordinary flight risk.

$100,000 of monthly expenses, he has the finances to escape from this country. Indeed, the Government found more than $500,000 in United States currency, foreign currency, and gold coins in one of his homes—all assets that he did not disclose to Pretrial Services. His co-defendant Wang had another $138,000 in cash in her apartment. And William Je, the financial architect of the fraud, *is a fugitive* believed to be hiding in the UAE. Je is believed to have access to millions of dollars of fraud proceeds in foreign accounts that can be used to facilitate Kwok's and his family's flight. The bank documents found in Wang's condominium corroborate the presence of other assets. Those documents reflect balances, as of March 13, 2023, of at least approximately $34 million held in the names of entities associated with the fraud. Given this backdrop, the defense argument that Kwok's bankruptcy filing means he lacks the finances to flee is simply wrong. (Def. Mem. at 28-29.) If anything, Kwok's bankruptcy further supports his pretrial detention, because it is evidence of the extreme lengths, and judicial gamesmanship, that Kwok undertakes to conceal his wealth.

Further, as described above, Kwok has stated he held *eleven* passports. The Government presently possesses his Hong Kong and Republic of Vanuatu passports. Kwok appears to hold a UAE passport that is unaccounted for, and it is not clear what other countries provided Kwok with travel documents. The fact that Kwok has obtained travel documents from at least three countries—and possibly as many as eleven—demonstrates that no court order can prevent Kwok from obtaining additional travel documents for himself and his family members. Kwok is also believed to have a private plane in Europe under the control of his son. As evidenced by the many stamps in his Hong Kong passport, and his admission to pretrial of traveling to more than "fifty" countries, Kwok is a deeply experienced international traveler who is comfortable in many locations throughout the world. *Zarrab*, 2016 WL 3681423, at *8 (citing "lack of ties to the United States; his significant wealth and his substantial resources; his extensive international travel; and his strong ties to foreign countries" as relevant considerations when ordering pretrial detention). Kwok's support is not limited to his son. As the bankruptcy court decisions have made clear, Kwok has a vast network of supporters willing to harbor and assist him should he request their help. Kwok has access to a deep well of resources—finances, documents, and a global network of supporters. No court-imposed conditions can ameliorate that.

While the Government believes there are many locations to which Kwok can flee, the United Arab Emirates is an obvious destination for several reasons. G|CLUBS and the Himalaya Exchange have offices and personnel in the UAE. Indeed, earlier this year, two American citizens associated with G|CLUBS and other entities used in the fraud obtained visas to work, and stay, in the UAE. If G|CLUBS personnel can obtain visas, then certainly Kwok—*i.e.* "The Principal" of the fraud—can do so as well. The defense ignores that Kwok has promoted sending funds to the UAE as a way to avoid the "long arm jurisdiction of the U.S." (Gov't Ltr. at 19.) Thus, Kwok knows the UAE is a relatively safe place for him to hide his assets, his family, and himself. Indeed, as noted, Kwok's co-defendant is believed to be hiding there right now. It is not credible for the defense to summarily claim there "is not evidence that Kwok would or could flee to the UAE." (Def. Mem. at 13-14.)

D. The Government Has Demonstrated that Kwok is a Danger to the Community and the Judicial Process

The defendant generally ignores the substantial evidence the Government has put forth demonstrating Kwok's propensity to inflict further economic harm on the community. As

described in the Government's March 15 Letter, the defendant's fraud has escalated over the course of years. Kwok has not stopped despite intervention by the SEC, closing of his accounts, receipt of grand jury subpoenas by entities affiliated with him, seizure of $630 million dollars, contempt rulings by a New York Supreme Court judge, and similar findings by a federal bankruptcy judge. (*See* Gov't Ltr. at 19-20.) The potential for ongoing harm is not theoretical. Just one month before his arrest, Kwok started promoting the "A10" offering—a purported investment opportunity that is consistent with the hallmarks of all of Kwok's other fraudulent offerings. (*Id.* at 10.) This Court can have no reasonable assurances that Kwok will simply stop his fraud efforts because he is ordered to do so, nor that he will not engage in financial transactions if this Court so directs him—particularly where the defendant has demonstrated extraordinary sophistication.[15] The defendant uses dozens of different cellphones and cellphone scramblers; he has relied on an intricate and dense web of shell corporations, middle men, and subterfuge. Kwok's ability to conceal his actions is not speculative. Federal and state court judges have found as much. *See e.g.*, *Eastern Profit Corp. Ltd. v. Strategic Vision US LLC*, No. 18-CV-2185 (LJL), 2021 WL 2554631 at *1 (finding by Judge Liman that "Eastern Profit Corporation," nominally held by Kwok's daughter, was "in essence, a shell corporation" for Kwok); February 9, 2022 Decision and Order, at 1, *PAX v. Kwok*, Index No. 652077/2017 (N.Y. Sup. Ct.), NYSCEF Doc. No. 1181 (finding Kwok used shell companies to shield his assets); *In re: Ho Wan Kwok, et al.*, Chapter 11 Case No. 22-50073 (JAM), at 10 (Bankr. D. Conn. Jan. 11, 2023) (Filed at Dkt. 7, Exhibit C) (identifying five organizations and movements which "serve as business vehicles for [Kwok], and their members are personally loyal to the [Kwok]").

The defense does little to contend with the mountain of evidence demonstrating Kwok's risk of obstruction of justice if he were released. Indeed, Kwok already appears to be engaged in such efforts. On March 29, 2023, the Government was advised by MDC staff that Kwok's "family members have been manipulating the [legal call] system and providing false information to circumvent the legal call system." (Ex. F.) On at least two occasions, Kwok communicated with individuals who appear to be family members using the legal call system, which is intended to be used only by inmates and their counsel. One occasion was after Kwok and his family were warned that the legal call system may not be used for social calls. Virtual legal calls are not recorded, whereas calls between an inmate and their family members are generally subject to monitoring. It appears that Kwok circumvented the rules of the MDC in an effort to avoid law enforcement

[15] Kwok relies on *United States v. Stein* in support of the argument that a defendant's past involvement in criminal activity is not itself sufficient to demonstrate an ongoing danger. In *Stein*, unlike here, the Government did not undertake any "real effort to suggest that there is a substantial risk that [the defendant] will continue to [commit crimes] if released pending trial." No. S1 05 Cr. 888 (LAK), 2005 WL 8157371, at *8 (S.D.N.Y. Nov. 14, 2005). Here, the Government has shown that, no matter the circumstances, Kwok continues to flout court orders and law enforcement actions and continues to commit fraud. In any event, *Stein* is a case in which the defendant charged with economic crimes *was detained pending trial* because, *inter alia*, the defendant was a flight risk whose financial disclosure was misleading. *Id.*; *see also id.* at *2 ("nonviolent witness tampering and obstruction poses a danger to the community and that the risk of such activities, in an appropriate case, would support pretrial detention" (citing *United States v. LaFontaine*, 210 F.3d 125, 132 (2d Cir. 2000)).

monitoring his activities. As a result, Kwok was temporarily banned from remote attorney visits.[16] If Kwok cannot abide by the rules of the MDC, there is no reasonable assurance that he will follow any conditions of pretrial release.

Tellingly, the defense does not meaningfully respond to or refute the many examples of obstruction described in detail in the Government's March 15, 2023 Letter, including: (i) Kwok's use of civil lawsuits to avoid payments to creditors; (ii) Kwok's February 15, 2022 bankruptcy filing to avoid a contempt ruling by a New York State Judge; (iii) the January 2023 findings by a federal bankruptcy judge that Kwok, despite the issuance of a TRO, continued to harass (through intermediaries) a court-appointed bankruptcy Trustee, his law firm Paul Hastings, and the law firm of O'Melveny & Meyers who represents one of Kwok's largest creditors, where those involved in the bankruptcy have received death threats from Kwok's supporters; (iv) Kwok's statements, in a January 23, 2023 video on his Gettr page following the bankruptcy court's preliminary injunction, in which Kwok encouraged his followers to obstruct the bankruptcy court and flood the docket with unsupported claims; (v) Kwok's video presentation in November 2022, explaining to his followers how to avoid subpoenas issued in connection with the bankruptcy[17]; (vi) Kwok's attacks against Individual-2, branding that person a "demon" and CCP spy, thereby subjecting Individual-2 to attacks by Kwok's followers; (vii) threats against victims who have complained about Kwok's fraud; (viii) Kwok's attacks against his critics, including calling for violence against a pastor who criticized Kwok; and (ix) Kwok's mobilization of his followers against a journalist in Canada, which resulted in physical assault of the journalist's friend.

At most, the defense generalizes these facts and suggests that they do "not constitute obstruction of justice." (Def. Mem. at 18.) The defense is wrong. While Kwok is not presently charged with obstruction-of-justice crimes, that does not mean the Court should excuse Kwok's substantial and dangerous obstructive conduct described in the Government's letters. That conduct includes many instances of Kwok using his power and his followers to interfere and pressure those who have instigated judicial proceedings against him. It includes Kwok's threatening of victims, encouraging witnesses to avoid legal process, encouraging thousands to disrupt bankruptcy proceedings, and mobilizing a pressure campaign that relies on violent threats (and sometimes actual violence) to dissuade others from acting against him. These are definitionally obstructive acts. The defense alternatively asserts that, even if these actions are obstructive, none of them are attributable to Kwok. The defense is again mistaken. Among other things, Kwok is literally on video engaging in obstructive conduct.

Finally, the defendant's contention that his proposed conditions would "eliminate any risk of obstruction" is unsupported and unpersuasive. (Def. Mem. at 18.) *First*, for all the reasons outlined above, this Court can have no reasonable assurance that Kwok will follow its orders (as opposed to the other court orders Kwok has defied). *Second*, Kwok is called "The Principal," by his co-conspirators for a reason. He operates through agents. Kwok issues directives to his co-conspirators and followers, who then act on his wishes while enabling Kwok to disclaim

[16] The Government subsequently advised the MDC the identity of Kwok's counsel and will work with the MDC to ensure that remote attorney visits with Kwok's counsel may resume. The Government will also work with the MDC to ensure Kwok has access to case materials and can meaningfully assist in the preparation of his defense.

[17] https://www.youtube.com/watch?v=KkKFfGzb7jE

involvement. Already, while incarcerated Kwok appears to have evaded the Bureau of Prison's rules. And already, Kwok's associates appear intent on obstructing justice in *this* case (as they have in others). For example, on March 30, 2023, Kwok's Gettr account posted false accusations about members of the undersigned prosecution team and an attorney with the Securities and Exchange Commission.[18] This post was made in Kwok's name, and on his account; it strains credulity to believe it was not authorized by Kwok himself.

While this Court can have no assurance that Kwok would abide by conditions of release, the Court can be reasonably assured that, if Kwok were released, his ability to coordinate a burgeoning campaign to obstruct these proceedings and to intimidate and endanger witnesses as well as Government employees merely performing their jobs, would increase exponentially.

IV. Conclusion

Pretrial Services was right to recommend detention. This Court should order the same. The Government has met its burden and demonstrated there are no conditions or combination of conditions that can satisfy this Court that the defendant will appear in court as required or that the community will be safe.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

By: /s/
Ryan B. Finkel
Juliana N. Murray
Micah F. Fergenson
Assistants United States Attorney
(212) 637-6612 / 2314 / 2190

Enclosures

Copy to: William R. Baldiga, Stephen R. Cook, and Stephen A. Best, *counsel for the defendant*
Stephen Boose, Pretrial Services, Southern District of New York

[18] https://gettr.com/post/p2cy7sycdbf

Exhibit G

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION

In re:	Chapter 11
HO WAN KWOK, *et al.*,[1]	Case No. 22-50073 (JAM)
Debtor.	(Jointly Administered)
HK International Funds Investments (USA) Limited, LLC	Adv. Proceeding No. 22-05003
Plaintiff	
v.	
Ho Wan Kwok	
Defendant	
Chapter 11 Trustee Luc A. Despins	
Counter-Plaintiff	
v.	
HK International Funds Investments (USA) Limited, LLC, and Mei Guo	
Counter-Defendants.	

[1] The Debtors in these chapter 11 cases are Ho Wan Kwok (also known as Guo Wengui, Miles Guo, and Miles Kwok, as well as numerous other aliases) (last four digits of tax identification number: 9595), Genever Holdings LLC (last four digits of tax identification number: 8202) and Genever Holdings Corporation. The mailing address for the Trustee, Genever Holdings LLC, and the Genever Holdings Corporation is Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 c/o Luc A. Despins, as Trustee for the Estate of Ho Wan Kwok (solely for purposes of notices and communications).

ORDER GRANTING CHAPTER 11 TRUSTEE'S MOTION FOR PRELIMINARY INJUNCTION PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 7065 FREEZING ASSETS OF COUNTER-DEFENDANTS

WHEREAS, Luc A. Despins, in his capacity as the chapter 11 trustee (the "Trustee"), is the counterclaim-plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), has moved for a preliminary injunction (the "Motion") freezing certain assets of counterclaim-defendants HK INTERNATIONAL FUNDS INVESTMENTS (USA) Limited LLC ("HK USA") and MEI GUO ("Ms. Guo" and, together with HK USA, collectively, the "Counterclaim-Defendants"); and

WHEREAS, on the basis of the papers submitted, following a hearing, and upon the consent of the Counterclaim-Defendants, the Trustee has demonstrated an entitlement to the requested preliminary injunction, and all objections to the Motion having been overruled;

NOW, THEREFORE, it is hereby ORDERED that:

(a) Counter-Defendants shall not transfer, encumber, move, dispose of, or in any way impair the *Lady May* until further order of the Court;

(b) Counter-Defendants shall not withdraw, transfer, encumber, move, dispose of, or in any way impair the Escrowed Funds[2] until further order of the Court;

(c) Counter-Defendant Mei Guo shall not transfer, encumber, move, dispose of, or in any way impair her interest(s) in HK USA until further order of the Court; and

(d) Counter-Defendants shall identify to the Trustee and to the Court within five days of entry of this Order any other property in which they hold an interest, and Counter-Defendants shall not transfer, encumber, move, dispose of, or in any way impair their interest(s) in such property until further order of the Court.

It is further ORDERED that:

1. The Motion is GRANTED in all respects.

2. The Trustee shall NOT be required to give a bond in connection with the preliminary injunction.

3. The Trustee is authorized to take all actions necessary to implement the terms of this Order.

4. This Order is immediately enforceable.

[2] "Escrowed Funds" means the funds deposited pursuant to that certain Escrow Agreement, dated as of April 28, 2022, by and among HK International Funds Investments (USA) Limited, LLC, the Official Committee of Unsecured Creditors appointed in the chapter 11 case of Ho Wan Kwok, and U.S. Bank National Association.

5. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated at Bridgeport, Connecticut this 17th day of March, 2023.

Julie A. Manning
United States Bankruptcy Judge
District of Connecticut

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION

In re:	:	Chapter 11
HO WAN KWOK, *et al.*,[1]	:	Case No. 22-50073 (JAM)
Debtor.	:	(Jointly Administered)
HK International Funds Investments (USA) Limited, LLC	:	Adv. Proceeding No. 22-05003
Plaintiff	:	
v.	:	Re: ECF No. 146
Ho Wan Kwok	:	
Defendant	:	
Chapter 11 Trustee Luc A. Despins	:	
Counter-Plaintiff	:	
v.	:	
HK International Funds Investments (USA) Limited, LLC, and Mei Guo	:	
Counter-Defendants.	:	

ORDER GRANTING MOTION OF CHAPTER 11 TRUSTEE FOR ESTATE OF HO WAN KWOK FOR PARTIAL SUMMARY JUDGMENT

[1] The Debtors in these chapter 11 cases are Ho Wan Kwok (also known as Guo Wengui, Miles Guo, and Miles Kwok, as well as numerous other aliases) (last four digits of tax identification number: 9595), Genever Holdings LLC (last four digits of tax identification number: 8202) and Genever Holdings Corporation. The mailing address for the Trustee, Genever Holdings LLC, and the Genever Holdings Corporation is Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 c/o Luc A. Despins, as Trustee for the Estate of Ho Wan Kwok (solely for purposes of notices and communications).

Upon the motion (the "Motion")[1] of Luc A. Despins, as chapter 11 trustee (the "Trustee") for the estate of Ho Wan Kwok (the "Debtor"), pursuant to Rule 56 of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding under Rules 7001 and 7056 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for entry of an order granting summary judgment in the Trustee's favor; and this Court having found that the Court has jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; the relief requested therein is core proceeding pursuant to 28 U.S.C. § 157(b); venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be given; and there is no genuine issue as to any material fact entitling the Trustee to summary judgment in his favor on the First Counterclaim; after due deliberation and sufficient cause appearing therefor, and for the reasons stated on the record during a hearing held on March 27, 2023, it is hereby ORDERED THAT:

1. The Motion is granted as set forth herein.

2. The Debtor is the beneficial owner of, and controls, the yacht the Lady May (as defined below).

3. Effective as of 2:55 p.m. on March 27, 2023, the Lady May (as defined below) is property of the Debtor's chapter 11 estate (the "Estate") pursuant to 11 U.S.C. § 541(a) to be administered by the Trustee. In particular, the sole owner of the Lady May is:

> Name: Luc A. Despins, as the chapter 11 trustee for the estate of Ho Wan Kwok
> Address: c/o Paul Hastings LLP, 200 Park Avenue, New York, New York 10166

[1] Capitalized terms used but not otherwise defined have the meanings set forth in the Motion.

4. The "Lady May" refers to the following yacht:

Name: Lady May
Number, Year and Port of Registration: 39 in 2014, George Town, Cayman Islands
IMO/LR Number: 1012359
Official Number: 745195
Signal Letters: ZGDQ9

5. Pursuant to 11 U.S.C. § 542(a), the Counter-Defendants, *i.e.*, HK International Funds Investments (USA) Limited, LLC and Mei Guo, shall deliver the Lady May to the Trustee immediately, and, moreover, shall provide any and all assistance reasonably necessary to (i) enable the Trustee to register the ownership of the Lady May in the name of the Trustee (on behalf of the Estate) and (ii) transition operation and maintenance of the Lady May to the Estate (on behalf of the Estate), including as it relates to procuring appropriate insurance coverage for the Lady May.

6. The Trustee is authorized to take all actions necessary or appropriate to effectuate this Order, including filing all necessary or appropriate registrations to reflect that the Trustee (on behalf of the Estate) is the registered owner of the Lady May.

7. Entry of this Order is without prejudice to the Trustee pursuing the other Counterclaims in the Answer and Counterclaims upon notice and entry of a scheduling order by the Court.

8. This Order is effective immediately, and no stay pursuant to Rule 7062 of the Federal Rules of Bankruptcy Procedure shall be effective, and the Court hereby waives any limitations set forth in Rule 7062 of the Federal Rules of Bankruptcy Procedure on the Trustee's ability to enforce this judgment upon its entry.

9. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated at Bridgeport, Connecticut this 27th day of March, 2023.

Julie A. Manning
United States Bankruptcy Judge
District of Connecticut

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT

In re: HO WAN KWOK, *et al.*, Debtors.[1]	Chapter 11 Case No. 22-50073 (JAM) (Jointly Administered)
LUC A. DESPINS, CHAPTER 11 TRUSTEE FOR THE ESTATE OF HO WAN KWOK, Plaintiff v. GREENWICH LAND, LLC and HING CHI NGOK, Defendant.	Adv. P. No. 23-05005 (JAM) Re: ECF No. 12

ORDER GRANTING IN PART *EX PARTE* MOTION
FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Upon consideration of the *ex parte* motion dated March 27, 2023 (the "Motion") filed by Luc A. Despins, in his capacity as the chapter 11 trustee (the "Trustee"), pursuant to Rule 65 of the Federal Rules of Civil Procedure, as made applicable by Rule 7065 of the Federal Rules of Bankruptcy Procedure, for injunctive relief to restrain defendant Greenwich Land, LLC ("Greenwich Land") and Hing Chi Ngok ("Defendant Ngok" and, together with Greenwich

[1] The Debtors in these chapter 11 cases are Ho Wan Kwok (also known as Guo Wengui, Miles Guo, and Miles Kwok, as well as numerous other aliases) (last four digits of tax identification number: 9595), Genever Holdings LLC (last four digits of tax identification number: 8202) and Genever Holdings Corporation. The mailing address for the Trustee, Genever Holdings LLC, and the Genever Holdings Corporation is Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 c/o Luc A. Despins, as Trustee for the Estate of Ho Wan Kwok (solely for purposes of notices and communications).

Land, collectively, the "Defendants") from encumbering, transferring, dissipating or otherwise interfering with their property and/or assets, and upon the certification of counsel why notice should not be required pursuant to Fed. R. Civ. P. 65(b), and upon all other pleadings filed in this adversary proceeding and the related jointly administered Chapter 11 cases of Ho Wan Kwok, et al., Case No. 22-50073 (the "Main Case"); it is hereby

ORDERED: Sufficient reason has been shown for the issuance of a temporary restraining order pursuant to Fed. R. Civ. P. 65(b) pending the hearing of the Trustee's Motion for Preliminary Injunction because immediate and irreparable injury, loss, or damage will result to the Trustee before the Defendants can be heard in opposition, and the Trustee has certified in writing that he gave notice to counsel for the Defendants who has appeared on behalf of the Defendants in the Main Case; and it is further

ORDERED: Pursuant to Fed. R. Civ. P. 65(b), the Defendants, and pursuant to Fed. R. Civ. P. 65(d)(2), their officers, agents, servants, employees, and attorneys, and other persons in active concert or participation with the foregoing upon receipt of actual notice of this Order by personal service or otherwise, are temporarily restrained and enjoined from encumbering, transferring, alienating, dissipating, paying over or assigning any property and/or assets of the Defendants; and it is further

ORDERED: Pursuant to Fed. R. Civ. P 65(b), the Defendants, and pursuant to Fed. R. Civ. P. 65(d)(2), their officers, agents, servants, employees, and attorneys, and other persons in active concert or participation with the foregoing upon receipt of actual notice of this Order by personal service or otherwise, are temporarily restrained and enjoined from directing any of the Defendants' banking institutions to encumber, transfer, alienate, dissipate, pay over or assign any property and/or assets of the Defendants until further order of this Court; and it is further

ORDERED: The terms and conditions of this Temporary Restraining Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED: A hearing on the Motion for Preliminary Injunction shall be held on April 11, 2023, at 3:00 p.m. and will continue until concluded; and it is further

ORDERED: Pursuant to this Court's discretion to set or waive the amount of any bond to be posted under Fed. R. Civ. P. 65, the Trustee need not post a bond; and it is further

ORDERED: The Trustee shall serve this Temporary Restraining Order on the Defendants and the Defendants' counsel, who have not yet appeared in this adversary proceeding; and it is further

ORDERED: This Temporary Restraining Order shall remain in effect until further order of the Court and the Court shall retain jurisdiction over this adversary proceeding to ensure compliance with this Order and for all other purposes related to this adversary proceeding.

Entered at Bridgeport, Connecticut at 6:34 p.m. on March 28, 2023.

BY THE COURT

Julie A. Manning
United States Bankruptcy Judge
District of Connecticut

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION

In re:	Chapter 11
HO WAN KWOK, *et al.*,[1]	Case No. 22-50073 (JAM)
Debtors.	(Jointly Administered)
LUC A. DESPINS, CHAPTER 11 TRUSTEE,	Adv. Proceeding No. 23-05005
Plaintiff,	
v.	
GREENWICH LAND, LLC and HING CHI NGOK,	Re: ECF No. 11
Defendants.	

ORDER GRANTING CHAPTER 11 TRUSTEE'S AMENDED APPLICATION FOR *EX PARTE* PREJUDGMENT REMEDY

WHEREAS, Luc A. Despins, in his capacity as the chapter 11 trustee (the "Trustee"), is the counterclaim-plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), has made an application for an *ex parte* prejudgment remedy (the "Application") to secure his claims against defendants Greenwich Land, LLC ("Greenwich Land") and Hing Chi Ngok ("Defendant Ngok" and, together with Greenwich Land, collectively, the "Defendants"); and

WHEREAS, the requirements of section 52-278e(a) of the Connecticut General Statutes having been shown, on the basis of the papers submitted, including but not limited to the supporting

[1] The Debtors in these chapter 11 cases are Ho Wan Kwok (also known as Guo Wengui, Miles Guo, and Miles Kwok, as well as numerous other aliases) (last four digits of tax identification number: 9595), Genever Holdings LLC (last four digits of tax identification number: 8202) and Genever Holdings Corporation. The mailing address for the Trustee, Genever Holdings LLC, and the Genever Holdings Corporation is Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 c/o Luc A. Despins, as Trustee for the Estate of Ho Wan Kwok (solely for purposes of notices and communications).

affidavit(s), there is probable cause that a judgment in the amount equal to or greater than $6.8 million, taking into account any known defenses, counterclaims or set-offs, will be rendered in the matter in favor of the Trustee, and there is a reasonable likelihood that the Defendants (1) have hidden or will hide themselves so that process cannot be served on them or (2) are about to remove themselves or their property from this state or (3) are about to fraudulently dispose of or have fraudulently disposed of any of their property with intent to hinder, delay or defraud their creditors or (4) have fraudulently hidden or withheld money, property or effects which should be liable to the satisfaction of their debts.

NOW, THEREFORE, it is hereby ORDERED that the Trustee shall be authorized, to the amount of $8,314,200;

(a) To attach sufficient property of the Defendants, as known, including that certain real property commonly known as 373 Taconic Rd, Greenwich, CT 06831, or as may hereafter be identified, or as otherwise discovered by the Trustee, to secure such sum;

(b) To garnish the Defendants' accounts at any financial institution, as known, including without limitation the accounts identified at exhibits 42, 43, 44, 45, 49, and 50 to the Complaint, or as may hereafter be identified, or as otherwise discovered by the Trustee;

(c) To attach any stock, membership, or other equity interests of the Defendants in any entity(ies), as known, including Defendant Ngok's membership interest in Greenwich Land, or as may hereafter be identified, or as otherwise discovered by the Trustee;

(d) To attach any personal property (including but not limited to automobiles, boats, aircraft, art, jewelry, and collectibles) and any currency or negotiable instruments in which the Defendants have any interest, as known, including personal property of the Defendants located at 373 Taconic Rd, Greenwich CT 06831, or as may hereafter be identified, or as otherwise discovered by the Trustee;

(e) To attach property of the Defendants in possession of any third persons, as known or as may hereafter be identified, or as otherwise discovered by the Trustee; and/or

(f) To garnish third persons in possession of other property of the Defendants or owing debts to the Defendants, as known or as may hereafter be identified, or as otherwise discovered by the Trustee.

It is further ORDERED that:

1. The Trustee shall NOT be required to give a bond in connection with the prejudgment remedy.

2. The Trustee is authorized to take all actions necessary to implement the terms of this Order.

3. The Court will schedule a hearing at a time convenient to the Defendants where the Court will consider the continuation of the prejudgment relief granted herein, with the burden remaining on the Trustee to justify the continuation of such prejudgment relief without relying on the prior issuance of such relief.

4. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated at Bridgeport, Connecticut this 28th day of March, 2023.

Julie A. Manning
United States Bankruptcy Judge
District of Connecticut

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION

In re:	Chapter 11
HO WAN KWOK, *et al.*,[1]	Case No. 22-50073 (JAM)
Debtor.	(Jointly Administered)
HK International Funds Investments (USA) Limited, LLC	Adv. Proceeding No. 22-05003
Plaintiff	
v.	
Ho Wan Kwok	
Defendant	
Chapter 11 Trustee Luc A. Despins	
Counter-Plaintiff	
v.	
HK International Funds Investments (USA) Limited, LLC, and Mei Guo	
Counter-Defendants.	

[1] The Debtors in these chapter 11 cases are Ho Wan Kwok (also known as Guo Wengui, Miles Guo, and Miles Kwok, as well as numerous other aliases) (last four digits of tax identification number: 9595), Genever Holdings LLC (last four digits of tax identification number: 8202) and Genever Holdings Corporation. The mailing address for the Trustee, Genever Holdings LLC, and the Genever Holdings Corporation is Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 c/o Luc A. Despins, as Trustee for the Estate of Ho Wan Kwok (solely for purposes of notices and communications).

AMENDMENT TO ORDER GRANTING CHAPTER 11 TRUSTEE'S MOTION FOR PRELIMINARY INJUNCTION PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 7065 FREEZING ASSETS OF COUNTER-DEFENDANTS

WHEREAS, Luc A. Despins, in his capacity as the chapter 11 trustee (the "Trustee"), is the counterclaim-plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), moved for a preliminary injunction (the "Motion") freezing certain assets of counterclaim-defendants HK INTERNATIONAL FUNDS INVESTMENTS (USA) Limited LLC ("HK USA") and MEI GUO ("Ms. Guo" and, together with HK USA, collectively, the "Counterclaim-Defendants"); and

WHEREAS, on March 17, 2023, the Court entered the *Order Granting Chapter 11 Trustee's Motion for Preliminary Injunction Pursuant to Federal Rule of Bankruptcy Procedure 7065 Freezing Assets of Counter-Defendants* [Docket No. 142] (the "Original Order");

WHEREAS, a status conference was held on March 30, 2023 (the "Status Conference") concerning certain developments related to the Original Order;

NOW, THEREFORE, for the reasons discussed on the record during the Status Conference, including the Counter-Defendants' consent to the relief provided for herein, it is hereby ORDERED that the Original Order remains in full force and effect, except that it is amended to provide as follows:

1. Counter-Defendants shall not transfer, encumber, move, dispose of, or in any way impair their interest(s) in any property or assets wherever located, regardless of whether such interest(s) have been disclosed to the Trustee pursuant to paragraph (d) of the Original Order or otherwise;

2. This amendment to the Original Order is immediately enforceable and shall be effective retroactive to the time of entry of the Original Order;

3. The Trustee is authorized to take all actions necessary to implement the terms of this amendment to the Original Order.

4. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this amendment to the Original Order.

Dated at Bridgeport, Connecticut this 31st day of March, 2023.

Julie A. Manning
United States Bankruptcy Judge
District of Connecticut

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION

In re:	Chapter 11
HO WAN KWOK, *et al.*,[1]	Case No. 22-50073 (JAM)
Debtor.	(Jointly Administered)
HK International Funds Investments (USA) Limited, LLC	Adv. Proceeding No. 22-05003
Plaintiff	
v.	
Ho Wan Kwok	
Defendant	
Chapter 11 Trustee Luc A. Despins	
Counter-Plaintiff	
v.	
HK International Funds Investments (USA) Limited, LLC, and Mei Guo	
Counter-Defendants.	

AMENDMENT TO ORDER GRANTING MOTION OF CHAPTER 11 TRUSTEE FOR ESTATE OF HO WAN KWOK FOR PARTIAL SUMMARY JUDGMENT

[1] The Debtors in these chapter 11 cases are Ho Wan Kwok (also known as Guo Wengui, Miles Guo, and Miles Kwok, as well as numerous other aliases) (last four digits of tax identification number: 9595), Genever Holdings LLC (last four digits of tax identification number: 8202) and Genever Holdings Corporation. The mailing address for the Trustee, Genever Holdings LLC, and the Genever Holdings Corporation is Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 c/o Luc A. Despins, as Trustee for the Estate of Ho Wan Kwok (solely for purposes of notices and communications).

The Court having entered the *Order Granting Motion of Chapter 11 Trustee for Estate of Ho Wan Kwok for Partial Summary Judgment* [Docket No. 172] (the "Original Order")[1] on March 27, 2023; and the Court having held a hearing on March 30, 2023, at which hearing, for the reasons stated on the record, counsel to HK International Funds Investments (USA) Limited, LLC and Mei Guo (the "Counterclaim-Defendants") consented to an amendment to the Original Order adding the Lady May II (as defined below) to the relief set forth in the Original Order,[2] it is hereby ORDERED THAT:

1. The Original Order remains in full force and effect, except that it is amended to add the following.

2. The Debtor is the beneficial owner of, and controls, the yacht the Lady May II (as defined below).

3. Effective immediately upon entry of this Order, the Lady May II (as defined below) is property of the Debtor's chapter 11 estate (the "Estate") pursuant to 11 U.S.C. § 541(a) to be administered by the Trustee. In particular, the sole owner of the Lady May II is:

> Name: Luc A. Despins, as the chapter 11 trustee for the estate of Ho Wan Kwok
> Address: c/o Paul Hastings LLP, 200 Park Avenue, New York, New York 10166

4. The "Lady May II" refers to the following yacht:

> Name: Lady May II
> Number, Year and Port of Registration: 52 in 2015, George Town, Cayman Islands
> Official Number: 746230
> Signal Letters: ZGEW5

5. All references in the Original Order to the Lady May shall include the Lady May II.

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[1] Capitalized terms used but not otherwise defined in this Order have the meanings set forth in the Original Order.

[2] Such consent is limited to adding the Lady May II to the Original Order and does not constitute a waiver of any right the Counterclaim-Defendants may have to appeal the Original Order (as amended by this Order), other than with respect to the addition of the Lady May II to the Original Order.

6. Entry of this Order is without prejudice to the Trustee pursuing the other Counterclaims in the Answer and Counterclaims upon notice and entry of a scheduling order by the Court.

7. This Order is effective immediately, and no stay pursuant to Rule 7062 of the Federal Rules of Bankruptcy Procedure shall be effective, and the Court hereby waives any limitations set forth in Rule 7062 of the Federal Rules of Bankruptcy Procedure on the Trustee's ability to enforce this judgment upon its entry.

8. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated at Bridgeport, Connecticut this 31st day of March, 2023.

Julie A. Manning
United States Bankruptcy Judge
District of Connecticut

EXHIBIT 8

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

HO WAN KWOK,

Defendant.

23 Cr. 118-1 (AT)

ORDER

ANALISA TORRES, District Judge:

On March 29, 2023, Defendant, Ho Wan Kwok, was indicted by a grand jury on charges of conspiracy to commit wire fraud, securities fraud, bank fraud, and money laundering, in violation of 18 U.S.C. § 371; wire fraud, in violation of 18 U.S.C. §§ 1343 and 2; securities fraud, in violation of 15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2; international promotional money laundering, in violation of 18 U.S.C. §§ 1956(a)(2)(A) and 2; international concealment money laundering, in violation of 18 U.S.C. §§ 1956(a)(2)(B)(i) and 2; and unlawful monetary transactions, in violation of 18 U.S.C. §§ 1957 and 2. Superseding Indictment, ECF No. 19. On March 15, 2023, the Honorable Katharine H. Parker arraigned Defendant on the initial indictment dated March 6, 2023, ECF No. 2, and he was detained on consent, ECF No. 8. On March 31, 2023, Defendant filed a motion for release on bail pending trial. ECF No. 23. On April 4, 2023, the Court arraigned Defendant on the Superseding Indictment and reserved decision on Defendant's bail application. Dkt. Entries 4/4/2023. For the reasons stated below, Defendant's motion for release pending trial is DENIED.

DISCUSSION

I. Allegations Against Defendant[1]

Defendant and two co-defendants are charged with defrauding thousands of victims out of over $1 billion by using a series of fraudulent businesses and investment opportunities; misappropriating victims' funds by laundering those funds through approximately 500 bank accounts associated with at least eighty entities or individuals in several countries; and improperly using those funds to enrich themselves. Superseding Indictment ¶¶ 1–3. Defendant used the fraud proceeds to purchase extravagant goods and assets for himself and his family, including homes and vehicles. *Id.* ¶ 4. Defendant operated this scheme from 2018 through March 2023. *Id.* ¶ 1.

In 2017, Defendant attracted a large online following after claiming to advance a movement against the Chinese Communist Party (the "CCP"). *Id.* ¶ 6(a). In 2018, he founded nonprofit organizations aligned with his purported campaign and amassed more followers. *Id.* ¶ 6(b). Defendant subsequently advertised fraudulent investment opportunities to his followers. *See, e.g.*, *id.* ¶¶ 14(a), 15.

During the relevant time period, Defendant functionally owned and controlled GTV Media Group, Inc. ("GTV"), a news-focused social media platform, and G Club Operations, LLC ("G Club"), a membership organization. *Id.* ¶¶ 10–11. He also designed purported cryptocurrencies offered on Himalaya Exchange, a platform that has business relationships with entities functionally owned and controlled by Defendant. *Id.* ¶ 12.

Between April and June 2020, Defendant obtained more than $400 million from victims through an illegal private stock offering related to GTV. *Id.* ¶ 13. Defendant announced and promoted the offering on social media, directly contacted potential investors, and issued written

[1] The following facts are taken from the Superseding Indictment.

materials regarding the offering. *Id.* Contrary to Defendant's representations to investors, the vast majority of the funds raised were deposited directly into bank accounts in the name of GTV's parent company, which is owned by one of Defendant's family members. *Id.* ¶¶ 13(e)–(f). Another $100 million in raised funds was invested in a high-risk hedge fund for the benefit of the parent company. *Id.* ¶ 13(h).

In June 2020, domestic banks began freezing and closing accounts associated with GTV, in part because the accounts had received large wire transfers that referenced an unregistered stock offering. *Id.* ¶ 14(a). Defendant then began encouraging victims to invest in "collectives of informal groups" known as "farms" by promising that those investments would be convertible to stock in GTV, and by misrepresenting GTV's market value. *Id.* ¶ 14. Defendant obtained over $150 million by doing so. *Id.* Defendant misappropriated these funds by transferring millions of dollars to family members. *Id.* ¶ 14(f).

In October 2020, Defendant began inducing his followers to purchase online memberships in G Club by making false statements about the services included in such memberships. *Id.* ¶ 15. Defendant also used the membership organization to continue to induce his followers to invest in GTV, and other businesses affiliated with Defendant. *Id.* ¶ 15(f). The majority of the funds raised through the membership organization were used to pay Defendant's and his family's personal expenses, and purchase high-priced goods and real property, such as Defendant's mansion in New Jersey. *Id.* ¶ 16.

In April 2021, Defendant began promoting to his followers and making false statements about purported cryptocurrencies traded on Himalaya Exchange. *Id.* ¶¶ 18–20, 22. Defendant obtained over $262 million in funds through Himalaya Exchange, $37 million of which was used to purchase a luxury yacht in the name of one of Defendant's relatives. *Id.* ¶¶ 17, 23.

On September 20 and 21, 2022, U.S. authorities served seizure warrants on several domestic banks, seizing approximately $335 million from Himalaya Exchange and other entities associated with Defendant. *Id.* ¶ 24. One of Defendant's co-conspirators then attempted to transfer $46 million from domestic bank accounts associated with Himalaya Exchange to a bank account in the United Arab Emirates. *Id.* On October 16, 2022, U.S. authorities seized an additional $274 million from Himalaya Exchange and G Club. *Id.* ¶ 25. Following the seizures, Himalaya Exchange continued to misrepresent the value of its purported cryptocurrencies. *Id.* ¶ 25(b).

II. Legal Standard

The Bail Reform Act, 18 U.S.C. § 3141 *et seq.*, requires the Court to release a defendant pending trial subject to the least restrictive conditions that will reasonably assure the defendant's appearance as required and the safety of any other person and the community. 18 U.S.C. § 3142(c)(1)(B). The Court may order that a defendant be held without bail only if there are no conditions that will reasonably assure the defendant's appearance and the safety of any other person and the community, after considering the factors set forth in 18 U.S.C. § 3142(g). 18 U.S.C. § 3142(e)(1). Those factors are: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant, including family ties, financial resources, length of residence in the community, community ties, and past conduct; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release. 18 U.S.C. § 3142(g).

To support pretrial detention, the Government must establish by a preponderance of the evidence that the defendant presents a serious risk of flight or obstruction of justice, 18 U.S.C. § 3142(f)(2); *United States v. Friedman*, 837 F.2d 48, 49 (2d Cir. 1988), or by clear and convincing evidence that the defendant poses a danger to another person or the community, 18 U.S.C.

§ 3142(f)(2). If the Government carries its burden, then the Court must determine whether there are reasonable conditions of release that can be set to ensure the defendant's appearance and the safety of any other person or the community. 18 U.S.C. § 3142(e)(1).

III. Analysis

A. Flight Risk

The Court finds that the Government has shown by a preponderance of the evidence that Defendant presents a serious risk of flight.

First, Defendant has limited connections to the United States. He has a pending application for asylum, and if his application is denied, he will no longer be legally present in the United States. *See* Def. Mem. at 9, 15, ECF No. 24; Gov. Mem. at 2, ECF No. 7. The charges in this case may be grounds for denial of Defendant's asylum application. *See* Def. Mem. at 15; Gov. Mem. at 2. Defendant's wife and daughter reside in the United States and also have pending applications for asylum. Def. Mem. at 13. Defendant has a son who resides in the United Kingdom. Gov. Mem. at 21. Although Defendant claims that he would not leave behind "two of the most important people in his life," who cannot leave the United States due to their pending applications for asylum, Def. Mem. at 13, Defendant told Pretrial Services that he has "irregular" contact with his children, Pretrial Services Report at 3. The Court concludes, therefore, that Defendant's incentive to remain in the United States due to his daughter's presence is tantamount to his incentive to flee to the United Kingdom, where his son resides. And, Defendant previously left his family members, including his wife and daughter, in Hong Kong when he fled to the United States. *See* Def. Mem. at 7.

Second, Defendant has substantial connections and resources abroad, including his son and a co-defendant who resides in the United Kingdom, but is currently believed to be a fugitive in the United Arab Emirates. Gov. Mem. at 21; Gov. Reply at 10, ECF No. 26; Apr. 4, 2023 Tr. 7:18-20.

Defendant's businesses have bank accounts in various countries, including the United Arab Emirates, and two of Defendant's businesses have offices and personnel in the United Arab Emirates. Gov. Reply at 13. Defendant has an extensive network of devoted followers around the world. Gov. Mem. 5, 12, 15–16, 20–21, 23; *see also In re: Ho Wan Kwok, et al.*, No. 22-50073 (Bankr. D. Conn. Jan. 11, 2023) ("Bankruptcy Opinion"), ECF No. 7-3 (finding that Defendant's followers are "personally loyal" to him and have referred to him as a "spiritual leader").

Third, Defendant has the means and know-how to flee. In a search of Defendant's residences pursuant to a warrant on March 15, 2023 (the "March 15 Search"), law enforcement officers recovered two passports, including a Hong Kong passport which is still valid, and copies of a passport from the United Arab Emirates. Gov. Reply at 4, 8; ECF No. 26-2; ECF No. 26-5; Apr. 4, 2023 Tr. 21:6-9, 25:4-14; 32:19–33:14. Defendant previously claimed during an interview on April 19, 2017, that he had eleven passports. Complaint Exhibit 1B, *HNA Grp. Co., Ltd., v. Guo Wengui*, No. 653281/2017, Dkt. No. 7 (N.Y. Sup. Ct. Aug. 30, 2017) (English translation of April 19, 2017, interview between Defendant and Voice of America). Although law enforcement officials have confiscated the passports recovered during the March 15 Search, and Defendant previously surrendered his passport from the United Arab Emirates, *see* Apr. 4, 2023 Tr. 32:19–33:14, it is clear that Defendant is able to obtain travel documents with ease. Moreover, a clever defendant with sufficient resources could figure out a way to leave the country without travel documents. *See, e.g.*, Rupert Neate, *Ghosn 'Hid in Musical Instrument Case' During Escape from Japan*, GUARDIAN (Dec. 31, 2019), https://www.theguardian.com/business/2019/dec/31/carlos-ghosn-escaped-japan-hiding-in-a-musical-instrument-case. Defendant has access to a yacht and a jet owned by his family members that were allegedly purchased with fraud proceeds derived from the charged scheme. Gov.

Mem. at 5, 21; Superseding Indictment ¶¶ 4, 14(f)(i), 14(f)(iii). And, the Government need not show that Defendant is likely to flee internationally, but only that Defendant is not likely to return to court.

Fourth, Defendant has much incentive to flee. He is facing a maximum sentence of more than 100 years' imprisonment, Gov. Mem. at 21, and the evidence against him is strong. He may also face deportation proceedings. Defendant argues that he would not risk leaving the United States for fear of persecution by the CCP. Def. Mem. at 13–14. But, Defendant engaged in extensive international travel after leaving China in 2015, prior to filing his application for asylum in the United States. Def. Mem. at 7, 9, 14; Gov. Reply at 3–4. In other words, it is more likely than not that the pendency of Defendant's asylum application prevented him from traveling internationally between 2017 and the present, rather than his fear of persecution. *See* TRAVEL DOCUMENTS, uscis.gov/green-card/green-card-processes-and-procedures/travel-documents (stating that individuals with a pending application for asylum must apply for and receive particular travel documents before leaving the United States, or else the application is deemed abandoned). And, the charges in this case seriously undermine Defendant's eligibility for asylum.[2]

Therefore, the Court finds that the Government has met its burden of showing that Defendant poses a serious risk of flight.

B. Obstruction of Justice

The Court also finds that the Government has shown by a preponderance of the evidence that Defendant poses a serious risk of obstruction. *See United States v. Madoff*, 586 F. Supp. 2d 240, 250 (S.D.N.Y. 2009) (considering whether a defendant posed a serious risk of obstruction in the future);

[2] Defendant insists that he would still be eligible to remain in the United States pursuant to the Convention Against Torture, Def. Mem. at 15, but the success of such a future application is speculative, and, in any case, Defendant may still be removed to a third country other than China even if he is granted relief based on the Convention Against Torture, 8 C.F.R. § 1208.17(b)(2).

United States v. Stein, No. S1 05 Crim. 0888, 2005 WL 8157371, at *2 (S.D.N.Y. Nov. 4, 2005) (same).

Other courts have previously found that Defendant engaged in obstructive behavior by hiding his assets and failing to obey court orders. On February 9, 2022, Justice Barry Ostrager entered an order of civil contempt against Defendant for avoiding and deceiving his creditors by hiding substantial personal assets with corporations, trusted confidants, and family members. *Pac. All. Asia Opportunity Fund L.P. v. Kwok Ho Wan et al.*, No. 652077/2017, Dkt. 1181 (N.Y. Sup. Ct. Feb. 9, 2022); *id.* at 10 (finding that Defendant was "knowingly and intentionally violati[ng]" court orders). Six days after being ordered by Justice Ostrager to pay the judgment owed to the plaintiff in *Pacific Alliance Asia Opportunity Fund*, Defendant filed for bankruptcy. *Pac. All. Asia Opportunity Fund L.P. v. Kwok Ho Wan et al.*, No. 652077/2017, Dkt. 1190 (N.Y. Sup. Ct. Feb. 15, 2022); *In Re Ho Wan Kwok*, No. 22-50073, ECF No. 1 (D. Conn.).

During the bankruptcy proceeding, Bankruptcy Judge Julie A. Manning issued a temporary restraining order on November 23, 2022, restraining Defendant from posting false and harassing materials about people associated with the Pacific Alliance Asia Opportunity Fund, their counsel, and their relatives; publishing online the home addresses and personal information of those individuals; encouraging, inciting, suggesting, or financing protests at the homes or offices of those individuals; and interfering with the integrity of the pending bankruptcy proceedings. Bankruptcy Opinion at 5. The order also required Defendant to take down existing social media posts that published the home addresses and personal information of those individuals, or encouraged, incited, or suggested protests at their homes or offices. *Id.* at 5–6.

On January 11, 2023, Judge Manning found that:

(1) Defendant used burner phones to communicate with members of his various businesses, including for communications related to his bankruptcy proceeding. *Id.* at 11.

(2) Defendant instructed his followers, who were protesting outside the home of the bankruptcy trustee, to avoid service of process. *Id.* at 23.

(3) Defendant told his followers in an internet broadcast that, "to deal with this rogue [the trustee], we have our rogue's ways. In a few days you will see what would happen to him. Calamities, I can tell you guys. They will suffer calamities!" *Id.*

(4) Defendant posted videos and social media posts encouraging his followers to "persevere" with protests at the homes and offices of the trustee and his counsel, and called the trustee and his counsel "enablers of" or "worse than" the CCP. *Id.* at 23–25.

(5) Defendant, or someone else at Defendant's direction, breached a nondisclosure agreement by publicly releasing documents from a settlement conference. *Id.* at 29.

(6) The protests Defendant publicly encouraged and supported resulted in threats against the trustee, false accusations against the trustee and his counsel, including accusations of association with the CCP, and harassment of individuals not involved with the bankruptcy proceeding, including the trustee's family and colleagues. *Id.* at 25, 27, 29–31.

(7) The protests and harassment delayed the bankruptcy proceedings and caused creditors to fear filing claims due to the protestors' actions. *Id.* at 33.

Judge Manning issued a preliminary injunction prohibiting Defendant and those acting in concert with him from continuing to threaten and harass the plaintiff and related employees, as well as the trustee, his family, and his counsel. *Id.* at 60. Two days after Judge Manning's order, Defendant posted a message on one of his social media accounts, encouraging followers to file claims in his bankruptcy proceeding. *See* Miles Guo (@MilesGuo), GETTR (Jan. 13, 2023), https://gettr.com/post/p24ybdca10b (last accessed Apr. 11, 2023).[3] Defendant later posted a video encouraging his followers to file claims in order to drive up the trustee's attorneys' fees. Gov. Mem. at 15.

[3] It appears that the name associated with this account has since been changed, on some date after April 4, 2023, from "Miles Guo," one of Defendant's aliases, *see* Superseding Indictment, to "NFSC Today" (@NFSC_today).

Defendant continues to engage in obstructive behavior. On March 30, 2023, after Defendant was detained in this case, a message posted on one of Defendant's social media accounts accused the prosecutors in this case of "represent[ing] the CCP kleptocrats." *See* Miles Guo (@MilesGuo), GETTR (Mar. 30, 2023), https://gettr.com/post/p2cy7sycdbf (last accessed Apr. 11, 2023). The Government also alleges that victims of Defendant's fraud scheme have reported that, when they sought reimbursement or complained about fraudulent practices, Defendant branded them "CCP spies" on social media to incite his followers to harass them, or threatened to post on social media that members of the victims' families who were residing in China were associated with Defendant's anti-CCP movement, which would place those family members at risk of Chinese government retaliation. Gov. Mem. at 15. And, Defendant falsely represented to Pretrial Services that he had a total of $10,000 in assets, including two phones and his clothing. Pretrial Services Report at 3. But, the March 15 Search recovered substantial assets that Defendant had not disclosed: over $500,000 in cash in various currencies in a safe in Defendant's dressing room, thirty Brioni custom-made suits with "Brioni for Miles Kwok"[4] stitched into the jackets, seventeen computers, forty-three external media storage devices, and thirty cellphones. Gov. Reply at 3.[5]

Moreover, Defendant is technologically sophisticated and likely to delete, encrypt, or transfer electronic evidence and fraud proceeds if released. He has previously used burner phones to conceal communications with co-conspirators. Gov. Mem. at 20; Bankruptcy Opinion at 11. He has used Faraday bags to block the passage of radio frequency emissions and prevent electronic devices from electronic surveillance, as well as cellphone scramblers. Gov. Mem. at 20; Apr. 4, 2023 Tr.

[4] "Miles Kwok" is one of Defendant's aliases. *See* Superseding Indictment.
[5] Defendant claims that the cash does not belong to him, despite the fact that most of it was found in his dressing room. Apr. 4, 2023 Tr. at 27:22–28:3, 35:2-8. However, Defendant admits that he owns the cellphones and other devices found in his residences. *Id.* at 23:20-24. He did not disclose these to Pretrial Services, and the value of these devices and the clothing found in one of his residences far exceeds $10,000.

23:20–24:2. He has previously advised his followers via live web broadcast to use services provided by one of his businesses, Himalaya Reserve, which is involved in the alleged fraud scheme in this case, *see, e.g.*, Superseding Indictment ¶ 17, in order to secure money "against the long-arm jurisdiction of the United States," *The U.S. Is Planning to Sanction Singapore; Himalaya Wallet Is the Only Secure Option*, G NEWS (Feb. 21, 2023), gnews.org/article/949854 (last accessed Apr. 17, 2023). And, one of Defendant's co-conspirators, who is still a fugitive, was indicted for attempting to move fraud proceeds outside the jurisdiction of the United States after the Government began seizing funds from the businesses involved in the alleged fraud scheme. Superseding Indictment ¶¶ 24, 53–54.

Defendant's history of obstructive behavior in prior cases and his conduct in this matter establish that he is likely to continue this pattern if released.[6]

C. Danger to the Community

The Court further finds that the Government has shown by clear and convincing evidence that Defendant poses a risk of economic harm to the community. *See United States v. Gulkarov*, No. 22 Cr. 20, 2022 WL 205252, at *3 (S.D.N.Y. Jan. 24, 2022) (considering the risk of economic harm to the community); *Madoff*, 586 F. Supp. 2d at 253 (same); *United States v. Persaud*, No. 05 Cr. 368, 2007 WL 1074906, at *1–3 (N.D.N.Y. Apr. 5, 2007) (same).

On September 13, 2021, the U.S. Securities and Exchange Commission (the "SEC") filed a cease-and-desist order against GTV and its parent company with respect to the unregistered private stock offering described in the Superseding Indictment. *See In the Matter of GTV Media Group, Inc.*,

[6] On March 29, 2023, Metropolitan Detention Center ("MDC") staff notified the Government that Defendant's family members had been improperly accessing a telephone line known as the "legal call system," which is intended to be used only by defendants and their counsel. Gov. Reply at 14. Defendant claims that this was a mistake, and the result of language barriers and miscommunication. Apr. 4, 2023 Tr. 31:4-20. But, the MDC staff stated that multiple family members "manipulat[ed]" the system and "provid[ed] false information to circumvent the legal call system." ECF No. 26-6. This behavior fits Defendant's pattern of obstructive behavior; nonetheless, the Court need not rely on this incident to support its finding that Defendant has engaged and will continue to engage in obstructive behavior if released.

et al. Admin. Proc. File No. 3-20537, U.S. SEC. & EXCH. COMM'N (Jan. 19, 2023), https://www.sec.gov/enforcement/information-for-harmed-investors/gtv-mediagroup. The SEC ordered disgorgement of funds collected through the improper stock offering and established a fund to reimburse those who purchased stock. *Id.* In April 2022, when the fund began issuing disbursements, *id.*, victims began reporting to the Government that Defendant encouraged them to re-invest their disbursements in the fraud scheme alleged in this case. Gov. Mem. at 10. And, in February 2023, Defendant announced a new stock offering to his followers that involves Himalaya Exchange, one of the entities involved in the fraud scheme charged in the Superseding Indictment. Gov. Mem. at 10.

Despite the SEC's order in September 2021 and the seizure of funds from Defendant's businesses in September 2022, Defendant has continued to promote fraudulent investment opportunities to his followers and attempted to revictimize those who received disbursements from the SEC fund. The Court finds that this conduct constitutes clear and convincing evidence that Defendant will not abide by court orders and will continue to cause economic harm to the community if released.

D. Conditions that Would Ensure Defendant's Appearance and the Safety of Others

The Court finds that no condition or set of conditions would ensure Defendant's return to court or the safety of the community. Defendant's proposed bail package is insufficient. Defendant has proposed a bond of $25 million, $5 million of which is to be secured by cash or real estate. As noted, Defendant has filed for bankruptcy and claims to have assets worth only $10,000. In attempting to enforce the bond against Defendant, the Government would be one in a long line of creditors. Defendant has also proposed that the bond be signed by two adults, one of whom is not a family member. But, several of Defendant's family members, including his wife and daughter, are

referred to in the Superseding Indictment as recipients of fraud proceeds. *See, e.g.*, Superseding Indictment ¶¶ 4, 9; Apr. 4, 2023 Tr. 8:11-18. Moreover, Defendant has not identified any co-signers, let alone co-signers unrelated to the alleged fraud, with a net worth of sufficient unencumbered value to pay the bond, who have sufficient ties to the United States such that the Government would have a meaningful ability to enforce the bond against those individuals, and who would have moral suasion over Defendant.

Defendant has also proposed location monitoring. GPS monitoring is inadequate, as ankle monitors can be removed and ensure only a reduced head start should a defendant decide to flee. *See United States v. Freeman*, No. 21 Cr. 88, ECF No. 50 at 5:4-6 (S.D.N.Y. Oct. 5, 2021) ("Anyone who knows the technology of electronic monitoring knows that it is far from foolproof."); *United States v. Zarger*, No. 00 Cr. 773, 2000 WL 1134364, at *1 (E.D.N.Y. Aug. 4, 2000) (stating that electronic monitoring "at best . . . limits a fleeing defendant's head start"). The Court also rejects Defendant's proposal regarding the use of private security because it is not as reliable as a federal jail.

Further, Defendant's past obstructive conduct in civil litigation, in his bankruptcy proceeding, and in this case, as well as his actions following the SEC order and the seizure of funds, demonstrate that the Court does not have reasonable assurance that Defendant will abide by any conditions of pretrial release.

Finally, the Court is not persuaded by Defendant's due process arguments. Def. Mem. at 2–4. Defendant's continued pretrial detainment will not deny him the ability to meaningfully participate in his own defense, the right to the effective assistance of counsel, or a fair trial.

CONCLUSION

For these reasons, Defendant's motion for release on bail pending trial is DENIED. The Clerk of Court is directed to terminate the motions at ECF Nos. 7 and 23.

SO ORDERED.

Dated: April 20, 2023
New York, New York

ANALISA TORRES
United States District Judge

EXHIBIT 9

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10979 / September 13, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20537

In the Matter of

GTV MEDIA GROUP, INC., SARACA MEDIA GROUP, INC., and VOICE OF GUO MEDIA, INC.,

Respondents.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act") against GTV Media Group, Inc. ("GTV"), Saraca Media Group, Inc. ("Saraca," and together with GTV, the "G Entities"), and Voice of Guo Media, Inc. ("VOG") (collectively, "Respondents").

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement ("Offers") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant To Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-And-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds[1] that:

Summary

1. This proceeding involves violations of the Securities Act registration provisions by Respondents. From approximately April 2020 through June 2020, Respondents generally solicited thousands of individuals to invest in an offering of GTV common stock (the "Stock Offering"). During the same period, the G Entities solicited individuals to invest in their offering of a digital asset security that was referred to as either G-Coins or G-Dollars (the "Coin Offering"). As a result of these two unregistered securities offerings, whose proceeds were commingled, Respondents collectively raised approximately $487 million from more than 5,000 investors, including individuals in the United States, through approximately July 2020.

2. According to the Stock Offering's information memorandum ("Memorandum"), the G Entities recently launched a news-focused social media platform, including the website *www.gtv.org*. The Memorandum claimed it would be "the first ever platform which will combine the power of citizen journalism and social news with state-of-the-art technology, big data, artificial intelligence, block-chain technology and real-time interactive communication" and planned to be "the only uncensored and independent bridge between China and the Western world."

3. Respondents disseminated information about the two offerings to the general public through publicly-available videos on the G Entities' websites, *www.gtv.org* and *www.gnews.org* as well as on social media platforms such as YouTube and Twitter. With respect to the Stock Offering, Respondents provided prospective investors with access to Google Drives that contained investment agreements and wire instructions for investors to send funds to purchase securities, while the G Entities solicited investments in the Coin Offering on the G Entities' public websites, social media platforms, and mobile applications.

4. The G Entities touted the Coin Offering as an investment opportunity with a likelihood of significant returns based on the G Entities' ability to develop an online platform through which investors would be able to transact using either G-Coins or G-Dollars. To date, the G Entities have not developed their social media platform's ability to accept payment using digital assets or otherwise exchange any digital assets, including those offered in the Coin Offering.

5. Through both the Stock Offering and the Coin Offering, the G Entities violated Sections 5(a) and 5(c) of the Securities Act by offering and selling securities without having a registration statement filed or in effect with the Commission or qualifying for an exemption from registration.

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[1] The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

Respondents

6. GTV, a Delaware corporation based in New York, New York, owns and operates a social media platform, containing numerous publicly-available videos. Saraca wholly owned GTV prior to the Stock Offering and has controlled GTV at all times since its incorporation in April 2020. Neither GTV nor its securities have ever been registered with the Commission in any capacity.

7. Saraca, a Delaware corporation based in New York, New York, is the parent company of GTV. Saraca sold a minority stake of its ownership interest in GTV through the Stock Offering. Neither Saraca nor its securities have ever been registered with the Commission in any capacity.

8. VOG, an Arizona corporation based in Phoenix, Arizona, provided various support services, including translation services, to the G Entities. VOG is not registered with the Commission in any capacity.

Facts

9. On April 17, 2020, Saraca established GTV as a wholly-owned subsidiary to own and operate a news-focused social media platform that was still in development. Saraca contributed all assets of the platform to GTV. Saraca's president and sole director at the time was named as one of GTV's executive directors and the two companies shared the same headquarters in New York, New York. Almost immediately after the creation of GTV, the G Entities initiated two unregistered securities offerings: the Stock Offering and the Coin Offering.

The Stock Offering

10. On April 20, 2020, the G Entities launched the Stock Offering to sell between 20 million and 200 million shares of GTV common stock at a price of $1 per share. The Stock Offering offered to sell up to 10% of Saraca's 100% ownership interest in GTV. The Memorandum informed prospective investors that Saraca would continue to exert significant control over GTV after the Stock Offering.

The G Entities Solicited the General Public to Invest in the Stock Offering

11. From approximately April 20, 2020 through June 2, 2020, the G Entities, through their management team and agents, marketed the Stock Offering to the general public through a series of publicly-available videos on GTV's websites, *www.gtv.org* and *www.gnews.org*, as well as YouTube, Twitter, and other social media platforms that constitute general solicitation. The first video, posted on YouTube on April 21, 2020, was entitled, as translated into English, "GTV Private Placement Subscription Instructions" (the "Launch Video"). The Launch Video described the investment terms for the Stock Offering and provided a mobile phone number for potential investors to use for inquiries about the offering. The Launch Video has had over 4,000 views. None of the G Entities' offering videos, including the Launch Video, were password protected or

placed any restriction on who could view them or any limitations on their ability to be shared. As a result, the general public, including prospective U.S. investors, accessed the online marketing videos about the Stock Offering through, for example, independent online research, social media, or referrals from other investors. While the Launch Video stated that the Stock Offering had a minimum investment of $100,000, many investors invested less than $100,000, as discussed below.

12. Further, the G Entities sent the Launch Video via text messages to hundreds of prospective individual investors with a link to a Google Drive folder that contained additional offering materials for the Stock Offering, such as the information memorandum, subscription agreement, and investment instructions. The G Entities, which owned and controlled the Google Drive folder, did not put any restrictions on the recipients' ability to forward the Google Drive folder or its contents, which were not password-protected, to other prospective investors.

13. In total, the G Entities sold approximately $339 million worth of GTV common stock to more than 1,000 investors, including U.S. investors. Some of these investors were unaccredited. Pursuant to the Stock Offering's investment instructions, the vast majority, if not all, of the offering proceeds were deposited directly to U.S. bank accounts in the name of Saraca.

14. On or around June 5, 2020, Saraca transferred $100 million of the Stock Offering proceeds to Hedge Fund A for purposes of investing in the fund. Hedge Fund A's investment strategy involves taking positions in various Asian currencies, particularly the Hong Kong dollar, versus certain developed market currencies through foreign currency forward and option contracts. By late July 2020, Hedge Fund A had invested $30 million of Saraca's $100 million transfer and, to date, that $30 million investment in Hedge Fund A has lost approximately $29.2 million in value.

VOG Offered and Sold GTV Stock

15. VOG engaged in steps necessary to the distribution of the Stock Offering. Specifically, the G Entities, through their management team and agents, directed VOG to purchase GTV stock from the G Entities on behalf of prospective investors who wanted to invest less than $100,000. VOG then solicited investors and collected investor funds for the purpose of purchasing shares of GTV stock on their behalf. There was no minimum investment amount to invest in the Stock Offering through VOG and investment amounts were generally in the amount of $100 or more.

16. To help facilitate VOG's role in offering and selling of GTV stock, the G Entities gave VOG a one-page Limited Purpose Agency Agreement ("LPAA") to provide to prospective investors in the Stock Offering. The LPAA specified that, in return for minimal consideration, a representative of VOG would serve as a so-called "agent" for an investor and purchase GTV shares on behalf of the investor in exchange for funds provided by the investor.

17. In response to inquiries received from prospective investors about the Stock Offering, VOG sent prospective investors a text message with a link to a folder on its Google Drive that contained the LPAA as well as wire instructions to a VOG bank account, but not any other

offering documents or financial information about the G Entities. VOG did not put any restrictions on prospective investors' ability to forward the Google Drive folder or its contents, which were not password-protected, to other prospective investors.

18. As part of the Stock Offering, VOG sold approximately $114 million in GTV stock to more than 4,500 investors, including U.S. investors. None of these investors ultimately was issued GTV shares. Many of these investors were unaccredited.

19. At the direction of the G Entities, VOG transferred a total of $61,274,318 in funds received from investors through the Stock Offering to bank accounts of the G Entities. Specifically, on May 15, 2020, VOG provided separate $15 million checks each to GTV and Saraca. VOG also provided Saraca with a check for $31,274,318 that Saraca deposited on or about July 22, 2020. VOG continued to receive funds from investors for the purchase of GTV stock through at least June 2020.

20. During the Stock Offering, VOG provided the G Entities with updates on its fundraising efforts and amounts collected from investors.

21. Based on the above, VOG engaged in steps necessary for the distribution of GTV stock and therefore offered and sold GTV stock.

Respondents' Conduct Violated the Offering Registration Provisions of the Securities Act

22. No registration statements were filed or in effect for the Respondents' offers and sales of GTV common stock, and the offers and sales did not qualify for an exemption from registration under the Securities Act.

23. As a result of the conduct described above, Respondents violated Section 5(a) of the Securities Act, which states that "[u]nless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly, (1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such a security through the use or medium of any prospectus or otherwise, or (2) to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale."

24. As a result of the conduct described above, Respondents violated Section 5(c) of the Securities Act, which states that "[i]t shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security."

The Coin Offering

The G Entities Solicited the General Public to Invest in the Coin Offering

25. From approximately April 1, 2020 through June 30, 2020, the G Entities, through their management team and agents, marketed the sale of G-Coins and G-Dollars to the general public through online videos on YouTube, Twitter, and other video-sharing and social media platforms. The G Entities have yet to develop or distribute the digital assets sold in the Coin Offering or a platform that would allow users to transact with or sell digital assets.

26. The G Entities' online promotions set forth that G-Coins, which the G Entities' indicated would eventually be merged into G-Dollars forming a single digital asset, and G-Dollars would be usable to purchase goods or services or exchange for gold or fiat currency on the G Entities' online platform. As part of its solicitation of G-Coin and G-Dollar investors, the G Entities did not provide investors with financial information about the plan to develop any digital asset or platform, or any written offering materials, including, for example, a white paper or private placement memorandum.

27. The G Entities collected approximately $34 million from the G-Coin and G-Dollar investors, pooling the proceeds in the G Entities' bank accounts and commingling them with proceeds from the Stock Offering. As part of the Coin Offering, many investors received a 20% discount on the $.01 purchase price for G-Coins and G-Dollars. Investors participated in the Coin Offering by transferring funds directly to the G Entities' U.S. bank accounts, by making payments to the G Entities' accounts on online payment platforms, by making purchases via the Apple App Store, or by writing checks. The vast majority of G-Coin and G-Dollar investors invested no more than $10,000 per investor, and the G Entities never inquired as to the financial or investment background of these investors.

Investors in the Coin Offering had a Reasonable Expectation of Obtaining a Future Profit from the Efforts of the G Entities

28. The G Entities promoted the sale of G-Coins and G-Dollars as an opportunity to obtain future profits from the efforts of the G Entities' management team and agents in the development of a digital asset and platform, and purchasers would have reasonably expected that they would profit from the G Entities' efforts. In the G Entities' online solicitations, the G Entities referred to G-Coin and G-Dollar purchases as "investments" and highlighted the likelihood of significant return on capital on the investment. In their online videos, the G Entities also discussed their view of the anticipated liquidity of G-Coins and G-Dollars on the GTV online platform, and their plan to allow users to exchange G-Coins and G-Dollars for fiat currency and goods and services available through the platform. At the time of the Coin Offering, the G Entities also discussed plans to develop the GTV online platform's capability to process transactions using G-Coins and G-Dollars and touted the "management, financial, investment, and merger and acquisition" experience of the G Entities' management team and agents. In fact, the Coin Offering's online materials stated that the GTV team would be "making an all-out effort to completely upgrade the G-Dollar system." The Memorandum also stated that the G Entities and their management team planned to build a platform that "will utilize state-of-the-art technology

including big data, artificial intelligence, 5G, and the blockchain payment system (G coin)."

The G Entities Offered and Sold G-Coins and G-Dollars in Violation of the Securities Act

29. Based on the above, the G Entities offered and sold G-Coins and G-Dollars as investment contracts and therefore securities pursuant to *SEC v. W. J. Howey Co.*, 328 U.S. 293 (1946), and its progeny, including the cases discussed by the Commission in its *Report of Investigation Pursuant To Section 21(a) of the Securities Exchange Act of 1934: The DAO* (Exchange Act Rel. No. 81207) (July 25, 2017) (the "DAO Report").

30. No registration statements were filed or in effect for the G Entities' offers and sales of securities as part of the Coin Offering, and the offers and sales did not qualify for an exemption from registration under the Securities Act.

31. As a result of the conduct described above, the G Entities violated Section 5(a) of the Securities Act, which states that "[u]nless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly, (1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such a security through the use or medium of any prospectus or otherwise, or (2) to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale."

32. As a result of the conduct described above, the G Entities violated Section 5(c) of the Securities Act, which states that "[i]t shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security."

Disgorgement and Civil Penalties

33. The disgorgement and prejudgment interest ordered in paragraph IV is consistent with equitable principles and does not exceed each Respondent's net profits from its violations, and will be distributed to harmed investors to the extent feasible. The Commission will hold funds paid pursuant to paragraph IV in an account at the United States Treasury pending distribution. Upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

Undertakings

34. Respondents have undertaken to:

A. Not participate, directly or indirectly, in any offering of a digital asset security.

B. Assist the Commission staff in the administration of a distribution plan,

including any and all efforts to distribute to affected investors the monetary relief described in paragraph IV below. In connection with such assistance, Respondents will produce, without service or notice of subpoena, any and all documents and other information reasonably requested by the Commission staff.

C. Publish notice of this Order on the G Entities' websites, including, but not limited to, *www.gtv.org* and *www.gnews.org*, and social media channels, in a form not unacceptable to Commission staff, within 10 days of the date of this Order.

D. Certify, in writing, compliance with the undertaking set forth above in paragraph 34.C. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondents agree to provide such evidence. The certification and supporting material shall be submitted to Sandeep Satwalekar, Assistant Regional Director, Division of Enforcement, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than thirty (30) days from the date of the completion of the undertakings.

E. In determining whether to accept the Offers, the Commission has considered these undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that pursuant to Section 8A of the Securities Act:

A. Respondents cease and desist from committing or causing any violations and any future violations of Sections 5(a) and 5(c) of the Securities Act.

B. Respondents shall comply with the undertakings enumerated in paragraph 34 above.

C. Respondents GTV and Saraca shall, within 14 days of the entry of this Order, pay, jointly and severally, disgorgement of $434,134,141, and prejudgment interest of $15,776,488 to the Securities and Exchange Commission. If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

D. Respondent GTV shall, within 14 days of the entry of this Order, pay a civil penalty of $15,000,000 to the Securities and Exchange Commission. If timely payment of penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

E. Respondent Saraca shall, within 14 days of the entry of this Order, pay a

civil penalty of $15,000,000 to the Securities and Exchange Commission. If timely payment of penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

F. Respondent VOG shall, within 14 days of the entry of this Order, pay disgorgement of $52,610,922, prejudgment interest of $1,911,877, and a civil penalty of $5,000,000 to the Securities and Exchange Commission. If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. If timely payment of civil penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment by each Respondent must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at *http://www.sec.gov/about/offices/ofm.htm*; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Respondent GTV, Saraca, or VOG, respectively, as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Sanjay Wadhwa, Senior Associate Regional Director, Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, New York 10281, or such other person or address as the Commission staff may provide.

G. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the disgorgement, prejudgment interest, and penalties referenced in paragraph IV above. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, each of the Respondents GTV, Saraca, and VOG agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, each of the Respondents GTV, Saraca, and VOG agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the

Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondents GTV, Saraca, or VOG by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary

EXHIBIT 10

DMP:AAS/ICR/NJM/JKW
F. #2020R00535

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
- X

UNITED STATES OF AMERICA

- against -

JIN XINJIANG (金新江),
also known as "Julien Jin,"
CHEN YUANYUAN (陈媛媛),
FU YIBIN (傅一彬),
HUANG YIWEN (黄奕雯),
also known as "Nicole Huang,"
JIN TAO (金涛),
LIU ZHIYANG (刘智洋),
SHEN ZHENHUA (沈振华),
SONG GUORONG (宋国荣),
TIAN XINNING (田心宁) and
XU WEI (徐威),

Defendants.

- X

AMENDED COMPLAINT AND AFFIDAVIT IN SUPPORT OF APPLICATION FOR ARREST WARRANTS

(T. 18, U.S.C., §§ 371, 1028(a)(7) and 1028(f))

No. 20-MJ-1103 (SJB)

EASTERN DISTRICT OF NEW YORK, SS:

JOSEPH HUGDAHL, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

COUNT ONE
(Conspiracy to Commit Interstate Harassment)

In or about and between 2017 and 2020, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants JIN XINJIANG (金新江), also known as "Julien Jin," CHEN YUANYUAN (陈媛媛), FU YIBIN (傅一彬), HUANG YIWEN (黄奕雯), also known as "Nicole Huang," JIN TAO (金涛), LIU ZHIYANG (刘智洋), SHEN ZHENHUA (沈振华), SONG GUORONG (宋国荣), TIAN XINNING (田心宁) and XU WEI (徐威), together with others, did knowingly, and with the intent to harass and intimidate, and place under surveillance with the intent to harass and intimidate one or more persons, conspire to use one or more interactive computer services and electronic communication systems of interstate commerce, and one or more facilities of interstate and foreign commerce to engage in a course of conduct that caused, attempted to cause and would be reasonably expected to cause substantial emotional distress to one or more persons and their immediate family members, contrary to Title 18, United States Code, Section 2261A(2)(B).

(Title 18, United States Code, Section 371)

COUNT TWO
(Unlawful Conspiracy to Transfer Means of Identification)

In or about and between January 2019 and June 2020, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants JIN XINJIANG (金新江), also known as "Julien Jin," HUANG YIWEN (黄奕雯), also known as "Nicole Huang" and JIN TAO (金涛), together with others, did knowingly conspire to transfer, possess and use, without lawful authority, and attempt to

transfer, possess and use, without lawful authority, one or more means of identification of another person, to wit: one or more email and online videotelephony accounts in the names of one or more victims, with the intent to commit, and to aid and abet, and in connection with, unlawful activity that constitutes a violation of Federal law, to wit: the Conspiracy to Commit Interstate Harassment charged in Count One.

(Title 18, United States Code, Sections 1028(a)(7) and 1028(f))

The source of your deponent's information and the grounds for his belief are as follows:[1]

1. I have been employed as a Special Agent by the Federal Bureau of Investigation ("FBI") for over ten years. During my tenure with the FBI, I have participated in numerous investigations, during the course of which I have, among other things: (a) conducted physical and electronic surveillance, (b) executed search warrants, (c) reviewed and analyzed recorded conversations and records, and (d) debriefed cooperating witnesses. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file; and from reports of other law enforcement officers involved in the investigation.

2. The statements attributed to individuals in this Affidavit are set forth in sum, substance and in part unless otherwise indicated. Many of the statements attributed to individuals were originally made in Chinese and are summarized or quoted in this Affidavit based on draft translations, which are subject to change. I have personally reviewed each of

[1] Because the purpose of this Amended Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

the electronic communications, including emails and chat messages, described in this affidavit, and participated personally in some of the interviews discussed herein. My knowledge of other interviews is based upon my review of reports and conversations with other law enforcement officers.

I. Background

A. Company-1

3. Company-1 is a U.S. communications technology company with headquarters in San Jose, California, but with operations around the world. Company-1 provides videotelephony and online chat ("video chat") services through a cloud-based peer-to-peer software platform and is used for teleconferencing, telecommuting, distance education, and social relations. Company-1's users can host or participate in video chat "meetings" that allow as many as hundreds or thousands of users to see, hear, and speak with each other from locations around the world.

4. Company-1 has significant operations in the People's Republic of China ("PRC"), where it employs hundreds of workers who focus primarily on research and development. Company-1 has multiple subsidiaries in the PRC, including one in Hangzhou, Zhejiang Province.

B. The Defendants

5. The defendant JIN XINJIANG (金新江), also known as "Julien Jin" (hereafter "JULIEN JIN"), is a 42-year-old citizen of the PRC who was employed by Company-1 from 2016 until approximately December 2020 as the "Security Technical Leader." In this capacity, JULIEN JIN was responsible for, among other things, serving as

primary liaison with PRC authorities, including law enforcement and intelligence services, and for preventing Company-1's users from using Company-1's communications platforms and services to commit violations of law or to engage in activities that otherwise violate Company-1's Terms of Service ("TOS"). JULIEN JIN led a team of Company-1 employees in the PRC.

Photo of JULIEN JIN

6. The other defendants, as detailed further below, conspired with JULIEN JIN in censoring, or directed JULIEN JIN to censor, speech disfavored by the PRC government and the Chinese Communist Party ("CCP") occurring on the Company-1 communications platform.

7. Defendant CHEN YUANYUAN (陈媛媛) is a female and a citizen of the PRC. CHEN is an official in the Cyberspace Administration of China ("CAC") in Hangzhou's Xihu District since at least in or about June 2020. CHEN provided guidance and directives to JULIEN JIN about removing content associated with a U.S.-based critic of the CCP and sought to have employees of Company-1 terminate video chat meetings during which U.S.-based dissidents intended to commemorate the Tiananmen Square massacre in Beijing, PRC (discussed in further detail below), an issue sensitive to PRC government and the CCP.

8. Defendant FU YIBIN (傅一彬) is a 39-year-old male and a citizen of the PRC. Since at least in or about 2005, FU has been a Ministry of Public Security ("MPS") officer, badge number 000832, stationed in Zhejiang Province as part of the Network Security Corps. FU provided guidance and directives to JULIEN JIN that led to the termination of video chat meetings on Company-1's platform that were organized by U.S.-based Chinese nationals to commemorate the 1989 Tiananmen Square massacre.

Photo of FU YIBIN

9. Defendant HUANG YIWEN (黄奕雯), also known as "Nicole Huang," is a 25-year-old female and a citizen of the PRC from Zhejiang Province. HUANG is believed to reside in either Indonesia or the PRC. HUANG worked with JULIEN JIN to create pretextual violations of the Company-1's TOS to terminate video chat meetings on Company-1's platform that were organized by U.S.-based Chinese nationals to commemorate the 1989 Tiananmen Square massacre.

Photo of HUANG YIWEN

10. Defendant JIN TAO (金涛) is a male citizen of the PRC. Since at least in or about 2020, JIN TAO has been an MPS officer stationed in Hangzhou as part of the cyber/network police. Among other things, JIN TAO provided directives to JULIEN JIN that led to the termination of video chat meetings on Company-1's platform that were organized by U.S.-based Chinese nationals with Company-1 accounts provisioned in the United States to commemorate the 1989 Tiananmen Square massacre.[2]

11. Defendant LIU ZHIYANG (刘智洋) is a 43-year-old male citizen of the PRC. Since in or about July 2002, LIU has been stationed in Beijing as an officer with the MPS's First Bureau. LIU provided guidance and directives to JULIEN JIN that led to the termination of video chat meetings on Company-1's platform that were organized by U.S.-based Chinese nationals to commemorate the 1989 Tiananmen Square massacre.

[2] When users set up new paid Company-1 accounts in the United States, the accounts provision to one of Company-1's server "clusters" in the United States that enable the Company-1 meeting experience. Company-1's clusters are distinguished primarily based on location and the type of account (i.e., a paid account or a free account).

Photo of LIU ZHIYANG

12. Defendant SHEN ZHENHUA (沈振华) is a 41-year-old male and a citizen of the PRC. Since at least in or about 2018, SHEN has been stationed in Hangzhou as an officer with the MPS's Network Security Bureau. SHEN provided guidance and directives to JULIEN JIN that led to the termination of video chat meetings on Company-1's platform that were organized by U.S.-based Chinese nationals to discuss U.S. legislation pertaining to Hong Kong and to commemorate the 1989 Tiananmen Square massacre.

13. Defendant SONG GUORONG (宋国荣) is a 43-year-old male citizen of the PRC. Since at least in or about 2020, SONG has been an MPS officer stationed in Hangzhou with the Hangzhou Xihu District's cyber/network police, with badge number 014679. SONG provided guidance and directives to JULIEN JIN that led to the termination of video chat meetings on Company-1's platform that were organized by U.S.-based Chinese nationals to commemorate the 1989 Tiananmen Square massacre.

Photo of SONG GUORONG

14. Defendant TIAN XINNING (田心宁) is a male citizen of the PRC. Since at least in or about October 2019, TIAN has been stationed in Beijing as an officer with the MPS's Network Security Bureau. TIAN provided guidance and directives to JULIEN JIN that led to the removal of critics of the CCP from Company-1's communications platform and led to the termination of video chat meetings on Company-1's platform that were organized by U.S.-based Chinese nationals to commemorate the 1989 Tiananmen Square massacre.

15. Defendant XU WEI (徐威) is a 35-year-old male citizen of the PRC. Since in or about June 2011, XU has been an official in the CAC in the Xihu District's Network Propaganda Guidance Center. XU provided guidance and directives to JULIEN JIN that led to the removal of critics of the CCP from Company-1's communications platform and led to the termination of video chat meetings on Company-1's platform that were organized by U.S.-based Chinese nationals to commemorate the 1989 Tiananmen Square massacre.

Photo of XU WEI

C. The PRC Government's Suppression of Political Dissent and Religious Speech

16. The PRC is a one-party state, whose government is controlled by the CCP.[3] While the constitution and laws of the PRC government purport to guarantee PRC citizens the freedom of speech, the CCP regards any political dissent as a threat not only to its own political interests, but also to the PRC's one-party system of government itself. Thus, the PRC government's national security and law enforcement agencies regard political dissent as a national security threat and routinely monitor and actively censor political speech inconsistent with CCP-approved political viewpoints, as well as speech that threatens to damage the reputation of the PRC government or the CCP or threatens to undermine the PRC's CCP-dominated social order.

17. The CCP's "unapproved" topics include discussions about the overthrow of the CCP's control of the PRC government and the statuses of the Hong Kong Special Administrative Region and the Republic of China—commonly referred to as Taiwan—to remarks on CCP General Secretary Xi Jinping's apparent resemblance to the fictional cartoon character Winnie the Pooh. The modern "Five Poisons" of the CCP—

[3] The information set forth in this section is based on my review of publicly available information and my experience investigating numerous cases involving the PRC.

namely Uighurs, Tibetans, adherents of Falun Gong spiritual practice, pro-democracy dissidents, and advocates for the independence of the island of Taiwan—are especially sensitive to the CCP.

18. To effectuate this censorship scheme, the PRC government requires electronic communications service providers that operate in the PRC, such as Company-1, to proactively monitor users' activities on their networks and to terminate discussions of politically sensitive topics. The PRC government similarly requires service providers to respond immediately when a PRC national security or law enforcement agency demands that the service provider terminate a discussion of a politically sensitive topic. Beginning in 2017, the PRC government expanded its control over electronic communications service providers by requiring them to store data for Chinese users within the national borders of the PRC.

19. Service providers who fail to adhere to the PRC government's censorship requirements risk being excluded from the PRC's market. The PRC government, through the CAC, the primary operator of the system informally known as the "Great Firewall of China," has the capability to block Internet access within China to particular servers and applications, and uses that capability to prevent PRC citizens from accessing the networks of electronic communications service providers that fail to comply with the PRC government's censorship demands.

20. The PRC government's efforts to censor political dissent do not end at the PRC's national borders. The PRC government, and in particular the Ministry of State Security ("MSS"), colloquially known as "*guo an*," which is the foreign intelligence and secret police agency of the PRC government responsible for counterintelligence, espionage

and political security, and the First Bureau of the Ministry of Public Security ("MPS")—colloquially known as the Domestic/National Security Police or "*guo bao*," and more recently as the Political Security Protection Bureau or "*zheng bao*"—routinely monitor, among others, Chinese political dissidents who live in the United States and in other locations outside the PRC. The MPS's First Bureau is the PRC's "secret" police, with a mandate that includes the suppression and censorship of political dissent, criticism and other potential threats to the PRC government and CCP. The MPS's Eleventh Bureau, colloquially known as "*wang an*," is the MPS's Network/Internet Security Bureau, that among other responsibilities, aids in the enforcement of the PRC government's online censorship directives. The PRC government, the MSS, and the MPS regularly use cooperative contacts both inside the PRC and around the world in an effort to influence, threaten and coerce political dissidents abroad. Indeed, I am aware that the PRC government has threatened or coerced Chinese political dissidents living in the United States in an effort to silence them.

21. The June 4, 1989 Tiananmen Square massacre is one of the politically sensitive topics of discussion that is routinely censored by the PRC government. On the night of June 3, 1989, into the morning of June 4, 1989, following weeks of large student-led protests advocating greater democratic representation for the people in the PRC's CCP-controlled system of governance, the People's Liberation Army ("PLA") violently crushed the protesters at Tiananmen Square and surrounding areas in Beijing, PRC during a state of

martial law. The PLA's crackdown led to the deaths of hundreds of PRC citizens and was widely condemned as a massacre.

22. The Tiananmen Square massacre has been, and continues to be, the subject of discussion throughout the world, including both in the United States and in the PRC, and PRC political dissidents around the world regularly commemorate the anniversary of the Tiananmen Square massacre and discuss the CCP's control over the PRC government. The PRC government has attempted to prevent such dialogue within the PRC, including by banning discussions and by using the PRC government's control over the Internet within the PRC to shut down such discussions on various electronic communications platforms.[4]

23. The PRC government also prohibits unauthorized religious activities, including online religious discussions. The PRC government requires religious groups to register with government authorities and restricts religious activities by both registered and unregistered religious groups. Collective or large-scale religious activities held outside of registered religious facilities, for example, are strictly restricted, and religious activities by unauthorized religious groups are likewise prohibited. The PRC government also imposes criminal penalties on religious groups it deems to be "cults" and uses these laws to persecute

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[4] Based on a review of the defendants' internal discussions, the investigation has revealed that certain defendants, most notably SHEN ZHENHUA, appear to hold beliefs about the student protests leading to the Tiananmen Square massacre consistent with the official explanation of Chen Xitong, who was mayor of Beijing at the time of the incident. In sum and substance, according to Chen Xitong's summary of the events, the student movement and protests beginning in April of 1989 were used by a small number of people to seize power from "legitimate" student unions that were democratically elected to cause planned, organized, and premediated political turmoil, which developed into a counter-revolutionary riot in Beijing to overthrow the leadership of the CCP and the socialist PRC itself. This "struggle"—which Chen blamed on Western influences—was only quelled by the work of senior CCP leaders, the PLA, and MPS officers.

and suppress the free exercise of religious expression by members of religious groups opposed by the CCP.

II. The Criminal Scheme

24. As set forth below in detail, JULIEN JIN, CHEN YUANYUAN, FU YIBIN, HUANG YIWEN, JIN TAO, LIU ZHIYANG, SHEN ZHENHUA, SONG GUORONG, TIAN XINNING, XU WEI and others conspired to use Company-1's systems in the United States to censor the political and religious speech of individuals located in the United States and around the world pursuant to the directives of the PRC government. Following the termination of JULIEN JIN's employment with Company-1 in or about December 2020, other PRC officers, including XU and CHEN, have continued to attempt to use Company-1's systems in the United States to similarly censor the political and religious speech of individuals located in the United States and elsewhere.

25. Among other actions taken at the direction of the PRC government, JULIEN JIN and certain other Company-1 employees repeatedly sought to terminate video chat meetings organized by a prominent, U.S.-based critic of the CCP and the PRC government, beginning in or about 2017 and continuing into June 2020. Further, JULIEN JIN and others also deplatformed U.S.-based users seeking to commemorate the 30th anniversary of the Tiananmen Square massacre in 2019 and terminated at least four video chat meetings hosted in 2020 on Company-1's networks commemorating the 31st anniversary of the Tiananmen Square massacre, most of which were organized and attended by U.S.-based participants. Some of the participants who were unable to attend the meetings in 2020—including dissidents who had participated in and survived the 1989 Tiananmen Square protests—were Company-1 customers in Queens and Long Island, New

York who had purchased subscriptions to Company-1's services, and therefore entered into service agreements with Company-1 governed by the TOS.

26. In May and June 2020, JULIEN JIN, FU YIBIN, HUANG YIWEN, JIN TAO, LIU ZHIYANG, SHEN ZHENHUA, SONG GUORONG, TIAN XINNING, XU WEI, CHEN YUANYUAN and others collaborated to identify meeting participants and to disrupt some of the meetings hosted on Company-1's U.S. servers, at times creating pretextual reasons to justify their actions to other employees and executives of Company-1, as well as to Company-1's users. In particular, while working under the direction of FU, JIN TAO, LIU, SHEN, SONG, TIAN and XU—among other PRC governmental officials—JULIEN JIN, HUANG and other co-conspirators acted to disrupt meetings held on the Company-1 platform during which participants intended to discuss topics considered politically sensitive by the PRC government, by infiltrating the meetings to gather evidence about purported misconduct occurring in those meetings or by gathering intelligence about the planned agenda of the meetings before the meetings even occurred.

27. In fact, there was no misconduct; JULIEN JIN, HUANG YIWEN and their co-conspirators fabricated evidence of TOS violations to provide pretextual justification for terminating the meetings, as well as certain participants' accounts. On the basis of these fabrications, JULIEN JIN tasked a high-ranking employee of Company-1 in the United States ("Employee-1") to effect the termination of meetings and the suspension and cancellation of user accounts.

A. Company-1's TOS

28. Based upon my review of Company-1's TOS, Company-1's TOS represent to Company-1's users that "[Company-1] will provide the Services, and you may

access and use the Services, in accordance with this Agreement." As relevant, Company-1's TOS represent that:

> [Company-1] will maintain reasonable physical and technical safeguards to prevent unauthorized disclosure of or access to Content, in accordance with industry standards. [Company-1] will notify You if it becomes aware of unauthorized access to Content. [Company-1] will not access, view or process Content except (a) as provided for in this Agreement and in [Company-1]'s Privacy Policy; (b) as authorized or instructed by You, (c) as required to perform its obligations under this Agreement; or (d) as required by Law. [Company-1] has no other obligations with respect to Content.

Under Company-1's TOS, users agree, among other things, that they will not use Company-1's services in a prohibited fashion, including to:

> (iii) engage in activity that is illegal, fraudulent, false, or misleading, (iv) transmit through the Services any material that may infringe the intellectual property or other rights of third parties; . . . or (vi) use the Services to communicate any message or material that is harassing, libelous, threatening, obscene, indecent, would violate the intellectual property rights of any party or is otherwise unlawful, that would give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation; . . . (ix) use the Services in violation of any [Company-1] policy or in a manner that violates applicable law, including but not limited to anti-spam, export control, privacy, and anti-terrorism laws and regulations and laws requiring the consent of subjects of audio and video recordings, ...

29. The TOS also reference Company-1's Privacy Policy, which states in relevant part that Company-1 will use "Operation Data," meaning "technical information from [Company-1]'s software or systems hosting the Services, and from the systems, applications and devices that are used to access the Services" to, among other items, "Detect, investigate and stop fraudulent, harmful, unauthorized or illegal activity ('fraud and abuse detection')."

30. The TOS in place at the time of the events detailed below was updated on or about April 13, 2020, and Section 3d(ix) of the TOS prohibits use of Company-1's

platform in violation of any Company-1 policy or in a manner that violates applicable law, including but not limited to anti-terrorism laws. The TOS stated that users could notify Company-1 of violations of the TOS agreement by contacting the email address <<violation@[Company-1].us>>.

31. According to Company-1 TOS, customers were subject to the local laws of the jurisdiction in which they used Company-1's platform. In other words, U.S.-based users of Company-1's platform in the United States would be subject to laws in the United States and not to the extraterritorial application of laws in the PRC.

B. JULIEN JIN and Others Follow Directives of the PRC Government to Censor Certain Political and Religious Speech

32. Beginning at least as early as November 2017, JULIEN JIN and certain other Company-1 employees in the United States and the PRC sought to comply with and globally implement the PRC government's censorship directives, even with respect to Company-1 users based in the United States. These censorship efforts continued through at least in or about June 2020 for JULIEN JIN, FU YIBIN, HUANG YIWEN, JIN TAO, LIU ZHIYANG, SHEN ZHENHUA, SONG GUORONG and TIAN XINNING; through at least in or about March 2021 for XU WEI; and through at least in or about June 2021 for CHEN YUANYUAN.

33. In or about November and December 2017, JULIEN JIN, Employee-1 and certain other Company-1 employees in the PRC and the United States exchanged emails related to alleged abuses of Company-1's platform for discussion of topics considered sensitive by the PRC government. In a Chinese-language email sent on or about November 30, 2017, JULIEN JIN described some "illegal" uses of the platform and noted examples that

included "Beijing * June * fourth activities and other political activities, Falun Gong, ISIS and other religious superstitions."[5] JULIEN JIN noted that "these" needed to be alerted and dealt with in real time as the cases might have a great impact on Company-1's operations and maintenance. JULIEN JIN described how Employee-1 had already pulled statistics on "Buddhist" accounts—which accounts held religious meetings impermissible under PRC law—and referenced behavioral analysis conducted on the accounts and meetings associated with these users. On or about December 1, 2017, Employee-1 replied in Chinese, "Totally agree. All abusing needs to be caught, the sooner the better."

34. In or about May 2018, JULIEN JIN and certain other Company-1 employees began to target a U.S.-based critic of the PRC government and the CCP who had fled from the PRC and resides in New York ("Victim-1").[6] In early May 2018, officials

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[5] Citations to electronic communications include original spelling, punctuation, and grammar. All translations of Chinese language into English are in draft form and subject to revision.

[6] [redacted]

from the CAC notified employees based in Company-1's office in Jiangsu Province about Victim-1's use of Company-1's platform and requested that Company-1 terminate Victim-1's meetings. Similarly, on or about May 15, 2018, the Propaganda Department of the Suzhou Municipal Party Committee[7] and the director of the CCP Propaganda Department in Suzhou, PRC interviewed the head of Company-1's office in Suzhou and others to learn the details of Victim-1's allegedly improper use of Company-1's platform.

35. Thereafter, PRC-based Company-1 employees identified Victim-1's accounts and notified JULIEN JIN, Employee-1 and Company-1's chief executive officer ("CEO-1") of their findings. In response, Employee-1 instructed Company-1 employees, "Check all related accounts." Accordingly, JULIEN JIN and others in the PRC identified additional accounts affiliated with Victim-1 and provided their findings to Employee-1 and CEO-1.

36. In the ensuing months, JULIEN JIN and certain other Company-1 employees engaged in a multifaceted effort to eliminate Victim-1 from the platform, including by using a "quarantine zone" on a server operated by a different Internet Service Provider ("ISP") with known latency issues—causing continued disruptions to service—to cause Victim-1 and his/her associates to abandon the platform, and by deleting stored video recordings that Victim-1's associates had made of their meetings on the platform. On or about May 7, 2018, Employee-1 accessed an account related to a U.S.-based associate of Victim-1 ("Victim-2"), determined that Victim-2's account had three stored video

[7] The Publicity Department of the Central Committee of the CCP is often referred to as the "Propaganda Department" and is responsible for ideology-related work, including enforcement of media censorship.

recordings, and deleted these three recordings without Victim-2's knowledge or consent and based on his/her affiliation with Victim-1.

37. The decision to move Victim-1's meetings to the quarantine zone was based not only on the desire to negatively impact the quality of Company-1 services provided to Victim-1 and his/her associates, but also to prevent Company-1's platform itself from being targeted by a distributed denial-of-service ("DDoS") attack by the PRC government, which Company-1 employees believed was possible based on information that the PRC government had previously attacked a competitor of Company-1 through a DDoS attack for not censoring disfavored content.

38. Meetings pertaining to Victim-1 were not the only candidates for relegation to the Company-1 quarantine zone. For example, on or about May 3, 2018, Employee-1 instructed JULIEN JIN and certain other Company-1 employees to "closely monitor 6/4 related meeting lately. Once found, put the account into" the quarantine zone. When a PRC-based employee asked what was meant by a "6/4 related meeting," Employee-1 replied "June 4th," a reference to the June 4th anniversary of the Tiananmen Square massacre.[8]

39. On or about June 2, 2018, a Company-1 employee in Suzhou sent an email to JULIEN JIN and Employee-1 indicating receipt of a call from the MPS about live broadcast meetings related to Victim-1 originating in Australia—with the meeting hosted in Company-1's Australian data center—and involving content related to "6/4." Over the next

[8] The PRC government and the CCP prevent teachings and discussions within the PRC about the events of the student protests that culminated in the Tiananmen Square massacre on June 3, 1989 and June 4, 1989. I am aware that, as a result, many PRC citizens are unfamiliar with the details of the event or the significance of any reference to June 4.

two days, JULIEN JIN and certain other Company-1 employees in the PRC moved multiple accounts they assessed to be related to Victim-1 to the quarantine zone based on what appears to have been an analysis of social media activity and Company-1 metadata on the devices and IP addresses used in the accounts that overlapped with the devices and IP addresses known to be used by Victim-1.

40. In or about June 2018, the issue of Victim-1's continued use of Company-1's platform surfaced again. Officials from the Propaganda Department of the CAC visited Company-1's office in Suzhou and asked Company-1 to block several accounts the CAC claimed to be associated with Victim-1 and to provide information on the registration of these accounts. Whereas the initial solution devised in May 2018 allowed for Victim-1 and his/her associates to use the platform with reduced quality of service in the quarantine zone, Company-1 employees began to take more aggressive action to remove Victim-1 from the platform. On or about June 27, 2018, Employee-1 sent an email to JULIEN JIN, CEO-1 and certain other Company-1 employees that effectively changed Company-1's policy on responding to Victim-1, advising that, going forward, Victim-1 and his/her supporters would now be deplatformed. According to Company-1 logs, on or about June 27, 2018, JULIEN JIN terminated approximately 15 accounts of U.S.-based users he assessed to be associated with Victim-1 based on what appears to have been an analysis of social media activity and Company-1 metadata on the devices and IP addresses used in the accounts that overlapped with the devices and IP addresses known to be used by Victim-1.

41. Despite Company-1's efforts to deplatform Victim-1, the PRC government flagged the company for its failure to act more quickly. On or about July 10, 2018, Employee-1 received a message from a Company-1 employee in Suzhou indicating

that Company-1 had received a "rectification" notice from the CAC with issues of concern. Primary among these was the presence of "harmful political information" on the platform—an apparent reference to Victim-1's use of the platform.[9]

C. JULIEN JIN and Others Continue to Perpetrate Harassment of PRC Dissidents

42. In the fall of 2018, Company-1 hired a general counsel, who was later given the title Chief Legal Officer (hereinafter "CLO-1"). CLO-1's responsibilities included, among other duties, the supervision of Company-1's response to law enforcement requests, including the eventual supervision of JULIEN JIN. However, the investigation has not revealed any evidence from 2018 or 2019 suggesting that Employee-1, JULIEN JIN or any other Company-1 employee who participated in suppressing the speech of users who allegedly violated PRC laws relating to political and religious expression consulted with CLO-1 before doing so, notwithstanding Company-1's official policies to the contrary (as detailed further below). Indeed, the investigation has revealed that certain Company-1 employees continued to monitor the platform for any use of the platform relating to Victim-1, commemorations of the Tiananmen Square massacre and other issues considered sensitive by the PRC government, and to act to suppress the speech of U.S.-based users and meetings hosted on U.S.-based servers.

43. For example, on or about September 21, 2018, after PRC government authorities contacted Company-1's Shanghai office concerning allegedly unlawful religious content on the platform, a PRC-based Company-1 employee emailed CEO-1, Employee-1,

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[9] Based on my training and experience, I understand that an entity in the PRC is generally required to submit a rectification report to the PRC authorities that explains the specifics of incidents that run afoul of PRC regulations, laws or expectations and describes the measures that will be put in place to prevent any future infraction.

and the site leaders of Company-1's offices in Suzhou and Hefei, PRC. The employee asked if Company-1 should provide account information for the user hosting the meeting to the Shanghai authorities, if the host account should be moved to the quarantine zone or directly disabled, and how to flag the issue under the TOS for possible future occurrences of similar conduct. JULIEN JIN and the site leader of Company-1's office in Hangzhou, PRC were subsequently added to the email chain. Employee-1 responded by delegating responsibility to JULIEN JIN and instructing him to move the account to the quarantine zone. A few days later, JULIEN JIN responded via email and asked Employee-1 in a mix of English and Chinese, "As of now, our US General Counsel is already onboard. Can you provide us more guide line from the US side? If so, please share with us?" The investigation has not uncovered evidence that JULIEN JIN or any of his work colleagues, in fact, consulted with CLO-1 ("our US General Counsel") on this matter.

44. Similarly, JULIEN JIN and others caused the blocking of an account tangentially related to Victim-1 in early 2019, without consulting CLO-1. On or about January 4, 2019, Victim-1 asked one of his/her employees, who was a United States person residing in Jericho, New York ("Victim-3"), to come to Victim-1's residence and assist with a video chat meeting. In an interview with the FBI, Victim-3 noted that Victim-1 had been encountering trouble connecting to the Company-1 platform. Accordingly, Victim-3 allowed Victim-1 to use Victim-3's personal Company-1 account for the meeting. Victim-3 reported to the FBI that, shortly after the meeting commenced, his/her device screen went "black" and the meeting was ended prematurely. Records from Company-1 indicate that, on or about January 4, 2019, Victim-1 used Victim-3's account from an IP address and ISP

in New York in a meeting that contained only one other participant, who joined from an IP address resolving to an ISP in Toronto, Canada.

45. Not realizing his/her account had been blocked, Victim-3 repeatedly contacted Company-1 customer service. On or about January 8, 2019, JULIEN JIN added an entry to the internal Company-1 ticket tracking the request and stated he had checked Victim-3's ID, "which was banned in [Victim-1] events earlier time. (TOS-NSA). Maybe we'd better pretend not to know this ticket." By using the phrase "TOS-NSA," I believe that JULIEN JIN intended to convey that Victim-3's account was banned at the request of the MSS, which is sometimes referred to by PRC citizens as the "National Security Agency" or "NSA," for purported violations of Company-1's TOS.[10] Indeed, on or about January 9, 2019, JULIEN JIN added another entry to the tracking ticket: "In [Victim-1's] events in 2018.06, we disabled a lot of Victim-1's/ Victim-1's fan's account and devices."

46. In internal emails exchanged on or about January 9, 2019, Employee-1, JULIEN JIN and two other Company-1 employees discussed the status of Victim-3's account that had been banned for its affiliation with Victim-1. Employee-1 replied in a January 9, 2019 email to JULIEN JIN, among others, that the "current strategy is to block as many as possible, not leaving any opportunities for [Victim-1] to use" Company-1's platform. JULIEN JIN then wrote on the tracking ticket, "We got confirmation from [Employee-1] that

[10] In correspondence with English speakers, JULIEN JIN refers to the MSS as the "National Security Agency" or "NSA;" in his correspondence with Chinese speakers and with MSS officers themselves, JULIEN JIN refers to the same organization as either "*guo an*" or "国安," the pinyin and Chinese characters respectively that are commonly translated as either "state security" or "national security" and used by Chinese speakers to refer to the MSS.

we should continue blocking [Victim-1]. We have to keep [Victim-1's] events away from [Company-1]."

47. At the same time, JULIEN JIN and Employee-1 assisted the PRC government's efforts to track meetings regarding the Tiananmen Square massacre—without consulting with CLO-1. For example, on or about May 21, 2019, Employee-1 sent JULIEN JIN notice that "we will strengthen the monitoring of meetings" as "6, 4" was very close—a reference to the upcoming June 4th commemorations of the Tiananmen Square massacre. JULIEN JIN acknowledged receipt of the instruction and thanked Employee-1 for the reminder. Shortly thereafter, on or about June 3, 2019, JULIEN JIN requested assistance from Employee-1 on a matter ostensibly related to the June 4, 2019 commemorations of the Tiananmen Square massacre. Employee-1 instructed JULIEN JIN to "pay special attention today."

48. According to log activity for June 4, 2019, JULIEN JIN blocked five Company-1 accounts to disrupt commemorations of the Tiananmen Square massacre. On or about June 6, 2019, JULIEN JIN emailed Employee-1 and CEO-1, among others, regarding his work with the local MSS to "force bidden" five user accounts because of "illegal" commemorations of the 30th anniversary of the Tiananmen Square massacre. By "force bidden," JULIEN JIN appears to have meant "force forbidding"—or blocking—the accounts. Notably, Company-1 records reveal that the five accounts were provisioned in the United States and appear to be used by U.S.-based customers.

49. On or about August 22, 2019, JULIEN JIN, Employee-1 and certain other Company-1 employees again acted—without coordinating with CLO-1—to disrupt a video meeting hosted by a Company-1 user on what appears to be a Company-1 server in the

United States. In electronic messages, JULIEN JIN claimed that the host was a "Chinese cult organization" with "very frequent" use of Company-1's services and stated that the user account should be blocked due to the religious content of the meeting. JULIEN JIN asked Employee-1 for instructions about how to handle the situation and whether the account needed to be disabled and the account's recordings deleted. In response, Employee-1—who was in the United States at the time—directed JULIEN JIN to place the account in a quarantine status. Employee-1 further expressed the hope that doing so would cause the user to stop using Company-1's platform.

50. Ultimately, JULIEN JIN succeeded in suppressing the speech of users in the United States and in other jurisdictions outside of the PRC by implementing separate protocols for Company-1's responses to PRC-related law enforcement requests as compared to law enforcement requests from other governments. Company-1 created a formal system and applied a written policy, the "Subpoena Intake and Processing Policy October 2018," that included a process for involving Company-1's legal function for questions on whether the requests were issued by legitimate agencies and were for "standard data." The policy required governments to submit written legal process to Company-1 and were handled by a Company-1 compliance function called the "Trust and Safety Team" staffed with personnel supervised by Company-1's head of global tech support. However, in practice, this team had no role in responding to requests from the PRC government. As to requests from the PRC government, JULIEN JIN and his team received requests directly from PRC authorities and worked with Employee-1, and certain other Company-1 employees, to respond, all without oversight from Company-1's legal function, including CLO-1.

51. JULIEN JIN outlined these disparate approaches in a September 3, 2019 email. He indicated that requests from the "US/EU/../Excluding China" were addressed through the support team headed by a high-level U.S.-based employee, and detailed the processes by which JULIEN JIN assisted such requests. In contrast, Company-1 handled special requests by law enforcement received from "Local China" without involvement of the Company-1 legal function. As to such requests, "Local NSA [MSS] and Cyber police prefer reach us directly—by phone call and meetings . . . we have to follow local law. No other team but we will [be] involve[d] in this case."

52. As a result of this dichotomy, JULIEN JIN, working with certain other Company-1 employees, successfully deplatformed users outside of the PRC for conduct occurring outside of the PRC, including users based in the United States or using Company-1 servers contained in the United States, thus subjecting these users to the extraterritorial application of the PRC government's censorship regime.

D. JULIEN JIN Works to Unblock Company-1's Services in the PRC

53. Beginning in September 2019, notwithstanding the proactive measures taken by JULIEN JIN, and certain other Company-1 employees, to censor political and religious discussions disfavored by the PRC government and the CCP, the PRC government blocked PRC-based internet users from connecting to Company-1's platform due to, among other things, its purported failures in executing PRC censorship directives. The blockage had the effect of disrupting service not only to individual users who had registered free accounts to use Company-1's service, but also to Company-1's fee-paying corporate customers who sought to communicate with employees and business partners located in the

PRC. The blockage of Company-1's service in the PRC began on or about September 8, 2019 and concluded on or about November 17, 2019.

54. As reflected by internal Company-1 correspondence, PRC government officials informed JULIEN JIN and certain other Company-1 employees that Company-1 could resume operations in the PRC once Company-1 complied with PRC laws and regulations.[11] The officials directed Company-1 to prepare and submit rectification plans and reports to various PRC government agencies, including the Hangzhou offices of the MPS's Network Security Bureau, to describe how Company-1 would comply with PRC laws and regulations.

55. As part of the proposed plans submitted in the rectification report, Company-1 indicated an intention to, among other measures, proactively monitor users' communications for content that included the expression of political and religious views unacceptable to the PRC government, June 4 commemorations (a reference to commemorations of the Tiananmen Square massacre), the Hong Kong "riots," Falun Gong, and the Dalai Lama in Tibet, among others. Company-1 also indicated its intention to monitor communications for content that spread "rumors" to smear Chinese leaders. The

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[11] In or about late October 2019, CEO-1 flew to the PRC, where he/she and JULIEN JIN met with the MPS's Network Security Bureau and other PRC government officials to address the blockage. While in Beijing, JULIEN JIN and CEO-1 first met TIAN XINNING of the MPS's Network Security Bureau. On or about October 23, 2019, JULIEN JIN and TIAN began communicating directly, and JULIEN JIN requested that TIAN provide guidance. After returning to Hangzhou on or about October 24, 2019, JULIEN JIN contacted TIAN about Company-1's intention to implement what they had discussed in Beijing and asked for assistance with introductions to the MPS in Hangzhou. TIAN noted that he would relay the relevant requirements to the MPS in Hangzhou and subsequently arranged for the MPS Network Security Bureau in Hangzhou, including SHEN ZHENHUA, to contact JULIEN JIN.

rectification report specifically referenced Victim-1 and the actions Company-1 had already taken against Victim-1 and his/her assistants, fans, and some users of Victim-1's sponsors. To formalize JULIEN JIN's role as the primary liaison with PRC authorities for all requests, the final rectification report included JULIEN JIN's work email address and telephone number as a point of contact for PRC authorities.[12]

56. On or about October 25, 2019, JULIEN JIN, Employee-1, CEO-1 and certain other Company-1 employees exchanged electronic messages to discuss a meeting that JULIEN JIN had attended at the Hangzhou office of the MPS's Network Security Bureau. JULIEN JIN explained that Company-1 had discussed with the MPS "illegal event regulation hotspots" and would "take the initiative to regularly report to and alert them." According to JULIEN JIN, MPS officers had advised that they would also "send us the hotspots." JULIEN JIN further explained:

> [T]hey also want me to provide a list of some details on our routine monitoring; such as Hong Kong protests, illegal religions, fundraising and multi-level marketing, etc. . . . I have also communicated with them and they will help with the determination of issues that we find difficult to determine whether they are illegal; I will go to their unit often in [the] future to give live demonstrations and communicate various issues.

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[12] Despite JULIEN JIN's role as Company-1's primary liaison with PRC authorities, evidence uncovered in the investigation indicates multiple defendants possessed contact information for certain other Company-1 employees. For example, whereas SONG GUORONG created and maintained only a contact at Company-1 for JULIEN JIN, SHEN ZHENHUA created and maintained contacts for JULIEN JIN and the site leader of Company-1's office in Hangzhou to whom JULIEN JIN reported. Additionally, after JULIEN JIN's termination from Company-1 in or about December 2020, FU YIBIN created a new contact for a different Company-1 employee in the PRC. Moreover, MPS officers continued to engage directly with Company-1 employees in the PRC and the United States other than JULIEN JIN. For example, as detailed below, in or about June 2020, the MPS's First Bureau in Beijing directed a request to both JULIEN JIN and the site leader of Company-1's office in Hefei, PRC.

57. In the same series of communications, JULIEN JIN advised that he would create five Company-1 accounts for officers of the MPS's Network Security Bureau in Hangzhou to use on Company-1's PRC-based network. Internal Company-1 communications reflect that, from October 2019 through May 2020, JULIEN JIN created Company-1 accounts for several PRC officials, including FU YIBIN, JIN TAO, SHEN ZHENHUA and SONG GUORONG. JULIEN JIN further explained that the MPS had agreed to use a combination of Company-1's commercial messaging system and a PRC-based Internet messaging application to communicate with Company-1. JULIEN JIN emphasized that "[a]ll activities should be confidential internally and externally."

58. On or about November 4, 2019, CEO-1, JULIEN JIN and one other Company-1 employees based in the PRC exchanged electronic messages about translating the rectification report from the Chinese language into English. JULIEN JIN noted that in communications with the MPS's Network Security Bureau, the MPS had advised that the information in the rectification report needed to remain confidential and was not suitable for the "US" [the United States] to see. CEO-1 disagreed and emphasized the need for transparency; he/she indicated that CLO-1 and Company-1's board would need to review the report. JULIEN JIN replied that he would adjust the language in the report about addressing Company-1 users who supported activities disfavored by the CCP and PRC government. JULIEN JIN noted he would also delete language in the draft rectification report about Company-1's monitoring being "global, not limited to China."

59. In the same exchange, JULIEN JIN noted that there were some boundaries that were not obvious, such as "illegal political activities," "spreading rumors to

smear Chinese state leaders" and "illegal religions." JULIEN JIN indicated he would specify on the document "China ONLY."

60. On or about November 5 and 6, 2019, JULIEN JIN and SHEN ZHENHUA communicated about the progress of implementing Company-1's rectification plans.[13] SHEN requested materials and data regarding, among other things, Company-1's network security management mechanism, technical security measures for Company-1's network security and Company-1's network security emergency response protocol. SHEN requested updates on whether points identified in the inspection—including on content security and data security—had been completed.

61. On or about November 17, 2019—the day Company-1's service was finally unblocked in the PRC—JULIEN JIN thanked TIAN XINNING and the MPS's Network Security Bureau for their guidance and assistance in removing the blockage. JULIEN JIN commented that rectification work was progressing as scheduled. TIAN responded that the key was to enforce "KYC"— know your customer—and to regulate the content security and user behavior, safeguard system security, timely respond to supervision and regulation compliance, and establish an emergency response mechanism with the local PRC authority. JULIEN JIN replied that a competitor of Company-1 had been blocked by MPS's Network Security Bureau because of "June 4th" commemorative meetings. JULIEN JIN claimed that Company-1 had strict supervision and regulation over political-related activities but had failed to handle religious activity or illegal fundraising in the past because

[13] SHEN and MPS officers under his direction appear to have also visited JULIEN JIN at Company-1's office in Hangzhou on multiple occasions to provide guidance on fulfilling the measures listed in the rectification report.

of the difficulty in assessing the legality of such conduct. JULIEN JIN indicated that Company-1 would strictly follow the rectification report.

62. In an exchange of electronic messages with a U.S.-based Company-1 employee on or about November 18, 2019, JULIEN JIN wrote, "As you know, local we're working with China Government on Cybersecurity recently (Top 1 by CEO). And here's good news – [Company-1's Internet domain] has been unblocked in China since yesterday." JULIEN JIN continued, "We doesn't make an official announcement on this, becuase there're a few rectification work we're still working on." JULIEN JIN further explained, "By the way, the direct reason local government blocked [Company-1's Internet domain] this time is because those illegal activies on [Company-1's platform] in China. I think somehow it's realted with TOS."

63. Following the unblocking of Company-1 in the PRC, JULIEN JIN spearheaded monitoring of user content disfavored by the PRC government and the CCP across Company-1's service globally. On or about November 19 and 20, 2019, JULIEN JIN and a TOS analyst at Company-1's office in Hefei exchanged chats about a new account associated with a user described in their messages as the "niece" of Victim-1, who resided in the United States. The TOS analyst stated a meeting in the account seemed to be related to "Hong Kong independence." JULIEN JIN responded, "Polical must be strictly controlled. But for political issues, don't tell customers." When the TOS analyst asked if Company-1 should directly block the account, JULIEN JIN responded affirmatively. The TOS analyst reported that he/she used an alias email account to join the meeting hosted by the "niece," indicated that the meeting was about a U.S. congressional bill related to Hong Kong, and reported that he/she had subsequently blocked the accounts of all the meeting's participants.

Similarly, on or about November 20, 2019, JULIEN JIN, Employee-1 and the site leader of Company-1's Hangzhou office exchanged electronic messages to discuss blocking the account of the same "niece."

64. On or about November 21, 2019, JULIEN JIN reported to SHEN ZHENHUA regarding the actions taken to block some foreign accounts and devices of "Hong Kong independence" and Victim-1's "niece." JULIEN JIN claimed that Company-1 was improving content monitoring as Victim-1 had recently become active again. After SHEN requested that JULIEN JIN prepare a report on these matters, JULIEN JIN agreed and thanked SHEN for his guidance. On or about November 29, 2019, JULIEN JIN electronically submitted to SHEN the report on the actions taken against "Hong Kong independence" and Victim-1's "niece."

E. JULIEN JIN Works to Continue Censorship Activities on Behalf of the PRC Government

65. In early 2020, as demand for Company-1's video meeting services climbed sharply during the COVID-19 pandemic, Company-1 sought to restructure and expand its operations in the PRC. Throughout the expansion process, the PRC government imposed additional controls over Company-1's operations and demanded a policy of immediate remediation of any illegal conduct on the Company-1 platform. In internal discussions, certain Company-1 employees, including JULIEN JIN, stressed that failure to comply with these growing requirements could result in another blockage of Company-1's platform in the PRC. Indeed, internal communications between JULIEN JIN, Employee-1 and certain other Company-1 employees in the United States and the PRC reflect a decision

to monitor for content disfavored by the PRC government and the CCP in a manner that extended to users outside of the PRC, including in the United States.[14]

66. In early 2020, JULIEN JIN communicated with MPS and CAC representatives regarding any necessary changes to network security requirements and to indicate Company-1's intention to comply with the CAC's directives. On or about February 19 and 20, 2020, JULIEN JIN requested MPS Officer SHEN ZHENHUA's assistance to pass PRC security reviews, as usage of the Company-1 platform had increased with the onset of the COVID-19 pandemic. JULIEN JIN noted that, through the counseling from senior Chinese legal counsel over the past period, Company-1 China had been refining network security and other compliances. SHEN indicated that he had instructed "Officer Song" of the Xihu District to contact JULIEN JIN. JULIEN JIN thanked SHEN for his guidance and later indicated that he had spoken with "Officer Song" over the phone. Based on the investigation, I believe that "Officer Song" is MPS Officer and defendant SONG GUORONG. JULIEN JIN added that Company-1 was constantly addressing "network security" issues, including during the Chinese New Year, regarding what he characterized as "rumors and nonsense" about the pandemic in China that had surfaced on a U.S. social media platform.

67. On or about February 20, 2020, JULIEN JIN contacted SONG GUORONG, thanking him for his support of Company-1 and indicating that he had created

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[14] Based on my review of communications and my experience conducting counterintelligence investigations relating to the PRC, the PRC government's definition of what constitutes "domestic" or "Chinese" users extends beyond PRC nationals located in the PRC; the definition also includes "overseas" Chinese, Chinese expatriates, and often, anyone with Chinese ancestry, regardless of nationality.

two Company-1 "VIP" accounts—or paid accounts—for SONG's use. Similarly, on or about February 21, 2020, JULIEN JIN notified SHEN ZHENHUA he had created additional VIP accounts for the MPS in Hangzhou.

68. On or about April 3, 2020, JULIEN JIN asked TIAN XINNING about queries from the MPS's Network Security Bureau in Shanghai, as Company-1 had already been in contact with the MPS's Network Security Bureau in Hangzhou. TIAN advised that local public security offices were responsible for day-to-day work interface, security supervision and regulation, and other important matters. TIAN noted it was the responsibility of Company-1 to assist the MPS in cooperating with the investigations and law enforcement regardless of the location. TIAN further advised Company-1 to cooperate as much as it could.

69. On or about April 3, 2020, JULIEN JIN wrote to certain other Company-1 employees, including Employee-1, that the MSS's preference was for Company-1 not to terminate meetings of target users immediately. I assess that, by keeping open meetings of investigative interest to the MSS, Company-1 would allow the MSS to obtain additional details on meeting participants, monitor the content of a meeting and gain actionable intelligence.

70. In May 2020, JULIEN JIN continued soliciting guidance from the MPS and CAC on network security requirements. On or about May 13, 2020, JULIEN JIN discussed Company-1's platform with FU YIBIN. After providing information on some of Company-1's features, JULIEN JIN invited FU to visit Company-1's office in Hangzhou to share guidance and to help with Company-1's "healthy growth."

71. At the same time JULIEN JIN was collaborating with various PRC authorities regarding compliance with changing PRC network security requirements, CLO-1 began to institute policies and controls that diminished JULIEN JIN's ability to carry out the global monitoring and censorship of content on Company-1's platform required by the PRC government. While Company-1 moved to consolidate a global compliance program for law enforcement requests, various media reports emerged questioning Company-1's security protocols, as well as the company's exposure to the PRC government. Around this time, CLO-1 announced a policy to revoke the access of Company-1's PRC-based employees—including JULIEN JIN—to Company-1's customer data stored in the United States. These policy changes progressively restricted the authorized methods available to JULIEN JIN and others to comply with the new requirements imposed by the PRC government. For example, JULIEN JIN lost access to the Company-1 system through which he could access user data, account information, and meeting information for the accounts of users based in the United States.

72. On or about April 7 and 8, 2020, JULIEN JIN wrote Employee-1 that JULIEN JIN had been summoned to a meeting with PRC government officials to discuss recent security and privacy issues. JULIEN JIN reported that the PRC government had directed Company-1 to develop the capability to respond within one minute to a PRC government demand to terminate an illegal meeting, account or recording, which JULIEN JIN referred to as the "one-minute processing requirement."

73. In these communications with Employee-1, JULIEN JIN noted that he was still working on several investigations for the MSS pertaining to users on the Company-1 platform. In response, Employee-1 suggested that another U.S.-based employee of

Company-1 ("Employee-2") could provide JULIEN JIN with access to a "remote" machine in the United States connected to Company-1's U.S.-based servers and internal systems. Employee-1 contemporaneously sent a message to Employee-2 directing Employee-2 to cooperate with JULIEN JIN. JULIEN JIN replied that the matter needed to be handled confidentially—apart from Company-1's regular support function—and stated that he would not be able to document his actions in a report. Employee-1 responded, "[I] see." Considering the previously announced policy change instituted by CLO-1 of terminating PRC employees' access to U.S.-based data, I assess that the use of a "remote" machine constituted an effort to circumvent the new, more restrictive, access control policies announced by CLO-1.

74. On or about April 15, 2020, JULIEN JIN and Employee-2 engaged in the following electronic communications:

> JULIEN JIN: Yesterday, [the MSS] asked me to track down a bad organization overseas.
>
> Employee-2: Is there someone applying for an account here [in the United States] and doing bad things in China? Otherwise, it has nothing to do with [the MSS]."
>
> JULIEN JIN: Almost. But even abroad, political attacks on leaders are not allowed. If you need approval, you can talk to [Employee-1] in person.
>
> Employee-2: 😀
>
> JULIEN JIN: Don't write mail.
>
> Employee-2: Just ask for instructions. To be honest, the United States has freedom of speech, and there is everything that you like to say, you really don't care. It only matters if you do bad things in the country.
>
> JULIEN JIN: We have so many people and multinational companies in China, we have to take care of both sides 😂.

75. On or about April 29, 2020, JULIEN JIN and Employee-1 exchanged electronic messages regarding a prior conversation between JULIEN JIN, CLO-1 and Company-1's new Chief Compliance Officer ("CCO-1") about the PRC government's one-minute processing requirement. JULIEN JIN explained that his "workaround permissions" could meet most of his needs but complained that CLO-1 and CCO-1 had insisted that Company-1 was obliged to report the PRC government's requests to Company-1's U.S.-based compliance team, which "is not compliance with powerful CN authorities' confidentiality principles"—using "CN" as shorthand for the PRC. JULIEN JIN further explained, "The CN departments I came into contact with allowed me to check their identification but will not leave any identification/photographs and anything else that may be exposed."

76. In the same conversation, Employee-1 explained that all of JULIEN JIN's access permissions in Company-1's "us clusters will be revoked, but cn cluster permissions will be retained"—referring to U.S.-based and PRC-based server clusters where Company-1 stored user data and provided Company-1's service to users, respectively. JULIEN JIN replied, "If so, I cannot do a lot of things. [The MPS's] Network Security [Bureau] will not agree to this either. Unless we also actively block China from the international version of [Company-1]." After Employee-1 inquired "What is your current workaround," JULIEN JIN responded that his permissions allowed him to "deal with violating accounts."

77. In the same exchange, Employee-1 advised, "The current requirement"—referring to Company-1's internal access control policies—"is that domestic

engineers cannot access us clusters data"—indicating that PRC-based software engineers were not permitted to access user data stored on U.S.-based servers. JULIEN JIN responded, "Network Security's requirements are that we must have direct disposition permissions for one-minute handling. For example, if US users have meetings that discuss the June 4th incident, it must be handled within one minute after reporting. Otherwise, security is not qualified."

78. After Employee-1 asked what JULIEN JIN had discussed previously with CLO-1 and CCO-1 and if they allowed him to access the data, JULIEN JIN pasted into the exchange with Employee-1 the image of a screenshot of an earlier chat with CCO-1, in which CCO-1 instructed JULIEN JIN, "What I do want notice of are China government and law enforcement requests for information on accounts." JULIEN JIN then advised Employee-1:

> If [Company-1] has a harmonious relationship with CN, the international version of our [Company-1 domain] may be used in China. If we have a poor relationship, our international version cannot be used in China. We only have very few cn users on cn cluster. A large number of multinational companies have branches, partners and business partners, etc. in cn. I personally feel that we still need to enhance cooperation with cn.

79. On or about May 7, 2020, JULIEN JIN wrote to three other Company-1 employees about an upcoming report to senior Company-1 executives in which he wanted to emphasize that Company-1 needed to pay attention and maintain the relationship with "cn zf" and how even those U.S. social media companies that conducted no business in the PRCstill deleted specific accounts and posts at the request of the "CN zf." In context, "cn" and "CN" appear to refer to the PRC ("China"); I am aware that in other chats, JULIEN JIN explained that "zf" is shorthand for *zhengfu*, the Chinese phrase for government. One of

JULIEN JIN's subordinates advised that they not talk about this subject as it made it seem as if the United States was infiltrated by the CCP.[15] JULIEN JIN replied that he only wanted to highlight that, even if Company-1 withdrew from the PRC, Company-1 would still need to deal with "CN zf" requests to avoid future attacks.

80. On or about May 7 and May 8, 2020, JULIEN JIN, Employee-1 and Employee-2 wrote each other about the PRC government's one-minute processing requirement. JULIEN JIN explained that he was unable to obtain billing information for a large customer, as JULIEN JIN could no longer access Company-1's U.S.-based servers. JULIEN JIN asked Employee-2 to restore JULIEN JIN's access privileges, so that JULIEN JIN could use Employee-2's remote computer for emergency troubleshooting. Employee-2 agreed and indicated that he/she would meet with JULIEN JIN later.

81. In May 2020, JULIEN JIN corresponded with FU YIBIN about the PRC government's expectations for Company-1 with respect to the forthcoming anniversary of the Tiananmen Square massacre. On or about May 19, 2020, in response to a query from FU, JULIEN JIN provided details about the use of the Company-1 platform in the PRC and asked FU about the status of the Hangzhou CAC review of Company-1's app—approval of which was necessary for Company-1 to continue plans for expansion in the PRC. JULIEN JIN commented that the CAC was reviewing, among other items, Company-1's content moderation, human review teams and law enforcement support, and described the differences in the registration processes at Company-1 for overseas users and PRC-based users. JULIEN JIN also noted that "6.4 is approaching and those of us who are doing control and

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[15] The original complaint mistakenly attributed this comment to JULIEN JIN rather than to one of JULIEN JIN's colleagues.

supervision works are under great pressure." As to "6-4," FU advised, "please fortify the content control and supervision. Any situation spotted needs to be prompted reported to the local region. Avoid passivity." JULIEN JIN replied, "We will take the 6.4 issue very seriously; the company will conduct control and supervision both internally and externally where social networking and public opinions are monitored."

82. On or about May 19, 2020, JULIEN JIN and Employee-1 exchanged instant messages about the forthcoming anniversary of the Tiananmen Square massacre. JULIEN JIN warned Employee-1 that "6.4" was coming soon, and that the "cn users" whom the PRC "Internet Police"—another name for the MPS's Network Security Bureau in Hangzhou—were tracking were on a Company-1 server cluster based in the United States. Employee-1 responded, "[U]nderstood."

83. The messages set forth below, sent as part of that aforementioned exchange of electronic messages, show that JIN emphasized the increased pressure and scrutiny that the MSS, MPS and "net police" were placing on Company-1, the need to keep secret the MSS's demands to censor political content, and the fact that the PRC government demanded that Company-1 censor the political speech of Chinese users no matter where they were located:

JULIEN JIN: …06/04 is close by, and the CN users that cyber police have been chasing recently are all on US04 [a Company-1 server].

Employee-1 ("E-1"): Understood.

JULIEN JIN: MSS, Network Security and Net Police have been making many trips to the company and we are handling this carefully. MSS is requesting us to sign a NDA agreement that prevents us from disclosing their request;

	where it involves US data, we are awaiting instructions from the US side and we need to formulate a standard.
E-1:	Ok. Did the Shanghai side look for us?
JULIEN JIN:	Whatever the MSS wants basically involves politics, so they are requesting us not to disclose it. Otherwise, it will have a great impact on China's reputation.
JULIEN JIN:	It was Shanghai's Department of State Security that sent people over.
E-1:	Understood.
JULIEN JIN:	Those using their real name in CN to do bad things are actually not that many; they are mostly from the U.S. If we do not handle this well, Network Security will block [Company-1's] overseas server, so please place importance on this.
. . .	
E-1:	Please block all the US04 free accounts as soon as possible
E-1:	Anyway, the reputation is already bad. 😃
JULIEN JIN:	We discovered today [Company-1's U.S. internet domain] still allows free registration in cn…
E-1:	Fix the we errors tomorrow.
JULIEN JIN:	From the Network Security perspective, we have to handle it no matter where the cn users are; if we do not handle it, they block us by enabling gfw or through other means.

84. In this context, based upon my experience investigating this case and others involving the PRC, I believe "NDA" refers to a "non-disclosure agreement," "Shanghai's Department of State Security" refers to the Shanghai State Security Bureau ("SSSB"), which is a regional office of the MSS, and "gfw" refers to the Great Firewall of China. In addition, JIN's statement "we have to handle it no matter where the cn users are"

indicates JULIEN JIN's understanding that the MPS's definition of "Chinese users" included persons of Chinese descent physically located in the United States. JULIEN JIN indicated noncompliance could have ramifications for Company-1.

85. Moreover, in the minutes from one of his meetings with "National security"—in this case the SSSB—about "Law enforcement support," JULIEN JIN wrote among other things, that companies are required to report situations involving data from abroad, and the MSS—likely a reference in this instance to the SSSB—will decide whether to obtain such data.

86. JULIEN JIN also provided warnings to a wider audience at Company-1 about the approaching June 4, 1989 anniversary. On or about May 19, 2020, JULIEN JIN wrote CEO-1, CLO-1, CCO-1, and Employee-1, among others, "June 4th is coming, which is a sensitive date for China Cybersecurity. They're very strict on this period—'Zero Abuse report.'" I assess that JULIEN JIN meant that the PRC government would not tolerate any "abuse" on Company-1's platform related to commemorations of the Tiananmen Square massacre.

87. Between on or about May 21, 2020 and May 25, 2020, TIAN XINNING notified JULIEN JIN of the request of the MPS's Network Security Bureau to meet with CEO-1 in Beijing. It is not clear how TIAN expected CEO-1 to travel to Beijing given the limited flight availability between the United States and the PRC and the PRC government's lengthy quarantine requirements for foreign arrivals in place at the time. JULIEN JIN conveyed to TIAN that he had been speaking recently with FU YIBIN and other MPS Network Security officers in Hangzhou on securing approvals necessary for Company-1's expanded operations in the PRC.

88. On or about May 22, 2020, JULIEN JIN wrote CEO-1 that "China centre cybersecurity"—a reference to the MPS's Network Security Bureau in Beijing and TIAN XINNING—"want to have a meeting you next week." CEO-1 replied that he/she needed to consult with CLO-1 first. Later that day, CLO-1 wrote JULIEN JIN that he/she had heard about the need to meet with "China Center Cybersecurity." Although CEO-1 could not travel to Beijing, CLO-1 indicated that Company-1 would agree to a meeting on Company-1 platform and asked JULIEN JIN to determine the purpose of the meeting. CLO-1 speculated as to possible topics including, among others: "June 4th—we understand this is a sensitive time. We will follow local Chinese law on this. But, we need to log it. If this is the sensitivity, maybe we can figure out in advance how to prepare."

F. JULIEN JIN and Others Censor the Political and Religious Speech of Company-1 Users Located Outside the PRC at the Direction of JIN TAO, SONG GUORONG, XU WEI and Others

89. As set forth below, JULIEN JIN collaborated with PRC government officials to proactively identify meetings that the PRC officials might deem objectionable. In the spring of 2020, despite being deprived of privileged access to Company-1's U.S.-based servers, JULIEN JIN caused Company-1 employees based in the United States to assist in disclosing U.S.-based user data to the PRC government and to censor political and religious speech. By June 2020, his efforts to comply with the PRC government's demands culminated in JULIEN JIN's participation in a scheme to fabricate pretextual violations of Company-1's TOS, which caused U.S.-based employees of Company-1 to terminate the accounts and meetings involving individuals located outside the PRC, including in the United States.

90. In late May 2020, and because of his inability to directly access customer information in the United States, JULIEN JIN brought several requests received from the PRC authorities concerning political and religious speech on Company-1's platform to the attention of CLO-1 and CCO-1. As shown below, the focus for CLO-1 and CCO-1 was determining whether the users in these meetings were based in the PRC, and thereby subject to the jurisdiction of the PRC authorities making the requests. Notably, JULIEN JIN appeared to intentionally deceive CLO-1, CCO-1 and others about whether the users were based in the PRC. At the time, Company-1 lacked a precise means to determine where users were physically located and often relied on analyses of the users' billing addresses, the location of IP addresses, as well as other indicators.

91. On or about May 21, 2020, JULIEN JIN provided to JIN TAO a unique identifier for a meeting hosted on Company-1's U.S.-based servers, as well as the password for a Company-1 meeting scheduled to take place on or about May 22, 2020 about the PRC's then proposed national security law in Hong Kong and to commemorate the anniversary of the Tiananmen Square massacre. JULIEN JIN informed JIN TAO that the meeting contained "non-China users (US, HK regions)." Indeed, based on the FBI's interviews with various individuals in the United States, I believe the meeting would have included prominent U.S.-based dissidents, including some residing in the Eastern District of New York, had it been allowed to take place. JIN TAO asked for JULIEN JIN to check on the commemoration's meeting host and asked if Company-1 discovered "it by yourselves." JULIEN JIN replied, "Yes, we conducted self-examination, it is the most sensitive period lately." JIN TAO replied, "Yes, there are more sensitive content recently." JIN TAO

instructed JULIEN JIN, "If these are discovered through examination, send them to me immediately."

92. Later in the same discussion, JULIEN JIN continued, "Since these meetings are in the U.S., we can't directly check. I have to request the information from the U.S. colleagues. We have now separated the data management. Chinese data can only be visited by Chinese companies, the U.S. data can only be visited by Americans." JIN TAO asked if JULIEN JIN could prioritize the matter. JULIEN JIN replied, "I have kept emphasizing how important we are; we will keep quarrelling and communicating with the big U.S. legal counsel" and stated he would block the account of the meeting's host, who was a prominent PRC dissident based in Hong Kong ("Victim-4"). After JIN TAO inquired if JULIEN JIN could block the account from his end, JULIEN JIN replied that "as of now, the U.S. accounts can only be blocked when we make a request to the U.S. side." Based upon publicly available information, I know that Victim-4 provided support to the Tiananmen Square protesters in 1989 and has participated in Hong Kong politics as a pro-democracy activist. Victim-4 has subsequently been incarcerated on political charges following Hong Kong's July 2020 passage of a national security law favored by the PRC government.

93. After notifying JIN TAO of Victim-4's forthcoming meeting, JULIEN JIN sent an electronic message on or about May 22, 2020 to a group of Company-1 employees, including Employee-1, another U.S.-based employee ("Employee-3"), CLO-1, Company-1's country manager in the PRC and CCO-1 (collectively, the "Compliance Group"), and urged them to take action against the meeting and the meeting's organizer so as to prevent the PRC's "cybersecurity org" from blocking all of Company-1 servers in the

PRC. I assess that "cybersecurity org" refers to the CAC and/or the MPS. Notably, whereas JULIEN JIN informed JIN TAO that the meeting contained "non-China users," JULIEN JIN claimed to the Compliance Group the requested action would prevent "CN users" from joining—a seeming reference to PRC-based users.

94. CCO-1 asked CLO-1 and Employee-3 to determine "whether the host account [is] owned by [U.S. Persons]/US-based Chinese nationals-OR-operated by China-based users via proxy[.] If the latter, Julien [JIN] said we have suspended such meetings before." The investigation has not uncovered any evidence suggesting that JULIEN JIN relayed to the Compliance Group the insight he conveyed to JIN TAO about the meeting containing "non-China users." Employee-1, CCO-1 and Employee-3 eventually determined Victim-4's account was provisioned in Hong Kong. CCO-1 commented in the Compliance Group chat, "We found multiple meetings scheduled" in Victim-4's account "that appear to be political so we suspended the account for now."

95. After Company-1's suspension of Victim-4's account, JULIEN JIN informed JIN TAO that "the 6.4 meeting yesterday has been addressed" and noted that Company-1 "will address this religion [meeting] today," apparently referring to a separate meeting that the PRC authorities found objectionable.

96. On or about May 22 and 23, 2020, JULIEN JIN wrote the Compliance Group that Company-1 was at risk because its users were hosting meetings with religious themes absent the requisite "religious service license" in the PRC. JULIEN JIN advised the Compliance Group that, before Company-1 could apply for a "religious service license" in the PRC, Company-1 must immediately terminate a "religious" meeting hosted on its

platform and provide user account information regarding the meeting participants located on U.S. clusters to the PRC government.

97. In the same chat, CLO-1 instructed Employee-1 to terminate the account. CLO-1 instructed CCO-1 to track how Company-1 responded to "this stuff"—referring to Chinese law enforcement requests—to improve transparency. JULIEN JIN then asked Employee-1 for information on the meeting's presenters. In response, Employee-1 provided JULIEN JIN with Chinese characters identifying what appears to be one of the presenters, together with an IP address resolving to ChinaNet Yunnan Province Network in Yunnan Province, PRC, noting this metadata was for a participant rather than the host. Employee-1 then terminated the meeting host's account, citing a purported TOS violation as the justification, and instructed JULIEN JIN to keep an eye on the topic. Based on electronic messages exchanged with certain other Company-1 employees, Employee-1 cited a TOS violation committed by the meeting participants as the justification for terminating the account. JULIEN JIN noted the account owner would still have access to Company-1's free service and requested forced termination of that access as well. The Compliance Group complied with JULIEN JIN's request.

98. On or about May 23, 2020, JULIEN JIN contacted SONG GUORONG with information on the host of the religious meeting received from Company-1 employees in the United States. JULIEN JIN noted the accounts were "force forbidden" from using Company-1's platform. SONG acknowledged receipt of the information.

99. Following the termination of the religious meeting, JULIEN JIN prepared a rectification report on the incident for the MPS and the CAC. On or about May 25, 2020, JULIEN JIN submitted this rectification report to the MPS's JIN TAO and SONG

GUORONG. That same day, JULIEN JIN submitted the same rectification report to XU WEI, an official with the CAC in the Xihu District of Hangzhou.

100. In an electronic conversation between JULIEN JIN and JIN TAO on or about May 26, 2020, JIN TAO asked JULIEN JIN for the account information for the individual hosting a meeting on Company-1's U.S. cluster. JULIEN JIN explained that Company-1 employees based in the PRC could not access data in the United States. JULIEN JIN then asked for and received the information from Employee-2, before sending the information to JIN TAO.

101. JULIEN JIN also sent electronic messages to task three Company-1's U.S.-based employees, including Employee-1, with providing him with user account information requested by the MSS and the MPS's First Bureau. On or about June 1, 2020, JULIEN JIN forwarded to Employee-1 and other U.S. employees what appeared to be feedback from the MSS describing their need for user information regarding any "cn" participants in a Company-1 meeting organized by a prominent U.S.-based dissident ("Victim-5") and hosted on Company-1's platform on or about May 31, 2020. I assess that, by using the phrase "cn" participants, JULIEN JIN likely meant Chinese participants.

102. Based upon publicly available information and witness interviews, Victim-5 was a student leader in the 1989 Tiananmen Square protests and has been an outspoken advocate for human rights and democracy in the PRC. Victim-5, who is based in the United States, used the Company-1 account of a U.S.-based associate ("Victim-6") to host the May 31, 2020 meeting commemorating the Tiananmen Square massacre.

103. Employee-2 agreed to provide JULIEN JIN with data responsive to the MSS request for information regarding Victim-5's May 31, 2020 meeting by disclosing

Victim-6's account information, including the account holder name, the user ID, account ID, and account number. Employee-2 asked for Employee-1's assistance in terminating the account. Employee-1 then terminated Victim-6's account and provided JULIEN JIN with confirmation of the termination; this communication included Victim-6's true name and email account. On or about June 1, 2020 and in a separate chat involving JULIEN JIN and Employee-2, Employee-2 sent JULIEN JIN numerous records regarding Victim-6's account, including documents with details on all of Victim-6's prior meeting history on Company-1's platform, as well as the IP addresses from which Victim-6 joined the meetings. Employee-2 also provided JULIEN JIN with multiple documents containing what appears from my review to be the names, IP addresses and devices used by all participants in Victim-5's May 31, 2020 meeting. The participant data pertained to several users who joined from IP addresses in the United States, as well as from Taiwan, Hong Kong and the PRC.

104. Victim-5 has informed the FBI, in sum and substance, that, leading up to the May 31, 2020 meeting, Victim-5 held several practice meetings in preparation. Initially, Victim-5 intended to use a pre-existing Company-1 account of an associate with experience using Company-1's platform. However, after users in the PRC encountered difficulties in joining the practice meetings, Victim-5 formed the view that PRC authorities were already surveilling the participants. As a result of this security concern, Victim-5 directed Victim-6 to upgrade from a free account to a paid account that would maximize service and the number of users allowed to participate in a Company-1 meeting.

105. Victim-5 further informed the FBI, in sum and substance, that PRC authorities pressured several potential meeting speakers in the PRC not to attend Victim-5's meeting on the Company-1 platform. According to Victim-5, PRC police officers arrived at

the residence of a potential speaker on the morning of May 31, 2020 and prevented him/her from using any electronics (and thereby attending the meeting). The PRC government similarly pressured another participant who had provided Victim-5 with a pre-recorded video to be played during the meeting on the Company-1 platform; Victim-5 reported to the FBI that this potential speaker was detained by PRC authorities two hours before the meeting started on May 31, 2020 and held until after June 4, 2020. He/she was released with the warning that he/she would be incarcerated if the video that he/she had provided to Victim-5 was seen by more than 500 viewers.

106. In addition, based upon witness interviews and review of open-source information, another anti-CCP demonstrator who currently resides in Australia ("Victim-7") received a call from his/her father in the PRC in April 2020. During the call, an MPS officer who was with the participant's father stated, in sum and substance, that the participant needed to stop anti-CCP activities, provide the officer with the passwords to the participant's social media accounts and return to the PRC. Victim-7 refused and recorded the call. During the May 31, 2020 meeting on Company-1's platform discussed above, Victim-7 discussed that call involving the MPS. On or about June 1, 2020, Victim-7's parents received an electronic message from the MPS, which message contained a screenshot showing Victim-7 in the May 31, 2020 meeting on Company-1's platform. Victim-7's father then sent the participant an electronic message asking whether the participant wanted his/her parents "dead." Victim-7 has stated, in sum and substance, that he/she was distressed by the pressure exerted by PRC officials on Victim-7 and Victim-7's family, particularly after the May 31, 2020 meeting on Company-1's platform.

107. On or about June 1, 2020, the site leader of Company-1's office in Hefei exchanged messages with JULIEN JIN and provided JULIEN JIN with the contact information for LIU ZHIYANG. At about this same time, JULIEN JIN began communicating with an individual who appears to be another MPS officer. The MPS officer provided JULIEN JIN with the same contact information for LIU and instructed JULIEN JIN to call the MPS directly. JULIEN JIN subsequently contacted LIU and later reported in a chat communication with the MPS officer that LIU said he was very satisfied.

108. Following his contact with LIU ZHIYANG, JULIEN JIN sent an update to the head of Company-1's office in Hefei. JULIEN JIN noted that he had just communicated with "*guo bao*," that is, the First Bureau of the MPS, and stated that "he"—referring to LIU—was "very satisfied with my answer." JULIEN JIN summarized that LIU's concern "about [Company-1] was mainly from the security perspective," "including intercommunication at home and abroad, how do we ensure security – the infiltration of pornography, religion, and political-related activities." JULIEN JIN had told LIU that "we [Company-1] do have a powerful security team as well as all kinds of supervisory and regulatory measures in place." JULIEN JIN further noted that LIU's only outstanding concern was with the number of Company-1 users in "Xinjiang." Based upon my training and experience and publicly available information, "Xinjiang" refers to the Xinjiang Province of the PRC, which has been the focus of international scrutiny because of the PRC government's alleged wholesale detention of the local Muslim population, including the Uighur ethnic minority group.

109. On or about June 1, 2020, JULIEN JIN sent an electronic message advising Employee-1 and two other U.S.-based employees of Company-1 that the MPS's

First Bureau had requested "Xinjiang users' data, user category, the number of the registered, and number of participants, etc." According to JULIEN JIN, the MPS further requested that the data be provided no later than "8:30 (China time)" the following day.

110. In the same series of communications, JULIEN JIN stated that, with respect to the data request from the PRC government, "[f]or global [accounts] it can either include or exclude cn01." Based upon my training and experience and the information gathered in the investigation, JULIEN JIN's reference to "global" accounts meant that he wanted to provide the PRC government with information related to accounts located anywhere in the world, not just in the PRC. Moreover, JULIEN JIN's reference to including or excluding "cn01" meant that the data could, but did not need to, include data about users whose data was stored on a Company-1 server in the PRC.

111. As discussed above, JULIEN JIN himself, located in the PRC, did not have access to data stored on Company-1's U.S. servers. Based upon publicly available records and communications I have reviewed, the Company-1 employees whom JULIEN JIN asked for help with the PRC government's data request related to Xinjiang Province, including Employee-1, were located in the United States.

112. On or about June 1, 2020, in response to JULIEN JIN's request, Employee-2 sent JULIEN JIN an electronic communication containing a spreadsheet with approximately 23,000 account IDs and user IDs for Company-1 accounts. The investigation has not revealed if JULIEN JIN provided some or all of this information to LIU ZHIYANG and the MPS.

113. On or about June 2, 2020, XU WEI began including JULIEN JIN on directives and notifications from the CAC on content from online platforms that was subject

to censorship that appears to have included several PRC nationals employed with other companies that monitored content on their respective platforms.[16] In the directive from on or about June 2, 2020, XU advised JULIEN JIN and the others to perform self-examination and self-correction soon, comprehensively investigate stored information, strictly control newly added information, firmly implement information content examination review mechanisms and fortify information content security firewalls. In addition, XU advised JULIEN JIN and the others to "toughen user management," "promptly and strictly take actions on non-compliance and harmful content or accounts that publish non-compliance and harmful contents," and "toughen the public review of content information, including replies, comments, pop-up advertisements and such." JULIEN JIN indicated that he understood XU's directive.

114. On or about June 3, 2020, SONG GUORONG issued a directive to JULIEN JIN and other PRC-based employees of technology companies responsible for monitoring content on their platforms. SONG instructed that "tomorrow"—June 4, 2020, the 31st anniversary of the Tiananmen Square massacre—"is a sensitive day" and that JULIEN JIN and others in the PRC should "enhance control over content and initiate prompt actions on issues." On or about June 4, 2020, JULIEN JIN indicated to SONG that he understood SONG's directive.

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[16] JULIEN JIN continued to receive similar censorship instructions from the CAC through at least July 2020, including from one directive from YUANYUAN CHEN to remove all content related to a well-known individual in the PRC ("Victim-8"). At the time, Victim-8 was advocating support for ideas put forth by Victim-1 disfavored by the CCP.

G. JULIEN JIN, HUANG YIWEN, Employee-1 and Certain Other Company-1 Employees Terminate June 3, 2020 and June 4, 2020 Meetings Commemorating the Tiananmen Square Massacre

115. By June 2020, JULIEN JIN's efforts to comply with the PRC government's network security demands culminated in JULIEN JIN and HUANG YIWEN's participation in a scheme to fabricate pretextual violations of Company-1's TOS, which caused U.S.-based employees of Company-1 to terminate the accounts and meetings involving individuals located outside the PRC, including in the United States. The investigation has revealed the Company-1 employees in the PRC, including JULIEN JIN, spoke with the PRC authorities about what constituted acceptable use of Company-1's platform and Company-1's TOS. Specifically, JULIEN JIN engaged in repeated conversations with PRC officials about what content violated Company-1's TOS, meaning the PRC authorities knew the exact types of pretextual complaints to submit to get commemorations of the Tiananmen Square massacre on Company-1's platform shut down.

116. As discussed below, JULIEN JIN and HUANG YIWEN spearheaded efforts to terminate or otherwise disrupt a series of meetings on the Company-1 platform on or about June 3, 2020 and June 4, 2020 related to the Tiananmen Square massacre. These efforts represented an active and deliberate process involving collaboration between JULIEN JIN, HUANG, Company-1 employees and others based in the PRC, to identify participants in and to disrupt these meetings for pretextual reasons.

117. The scheme involved, among other things, a coordinated attempt to trigger the suspension and/or termination of Company-1 accounts belonging to meeting organizers by fabricating evidence—some of which was manufactured in the names of PRC dissidents themselves—and otherwise falsely reporting that the June 3, 2020 and June 4,

2020 meetings involved discussions related to terrorism or pornography, and thus were in violation of Company-1's TOS. In fact, no such discussions or violations of the TOS were occurring. Through their scheme, JULIEN JIN, HUANG YIWEN and other members of the conspiracy sought to further efforts by the PRC government to prevent discussions of the Tiananmen Square massacre that the PRC government deemed subversive.

118. In furtherance of the scheme, the co-conspirators created a series of alias email accounts (the "Alias Email Accounts"), which they deployed in several ways to undermine the June 3, 2020 and June 4, 2020 meetings. First, members of the conspiracy used the Alias Email Accounts to create Company-1 accounts, to set the profile picture of some of those accounts to images associated with terrorism or pornography, and to enter some of the meetings using those accounts. Second, the co-conspirators used the Alias Email Accounts to submit purported false reports of TOS violations to JULIEN JIN and Company-1. The false reports included screenshots from the meetings of the images associated with terrorism or pornography that were generated by the conspirators themselves.

The June 3, 2020 Meeting

119. Based upon interviews conducted in the course of this investigation, as well as a review of screenshots of meetings and electronic communications, on or about June 2, 2020 and June 3, 2020, individuals associated with a student leader and participant in the 1989 student protests at Tiananmen Square ("Victim-9") organized a meeting on Company-1's platform to commemorate the anniversary of the Tiananmen Square massacre (the "June 3 Meeting"). Victim-9 is a resident of the Eastern District of New York and participated in the June 3 Meeting from his residence. The meeting was invitation-only, and social media postings about the meeting did not include the specific location of the meeting on Company-

1's platform. Throughout the course of several hours, the June 3 Meeting was shut down by Company-1, and then restarted by the organizers in a different meeting room on Company-1's platform. Based upon law enforcement interviews, the June 3 Meeting was configured so that only certain individuals, chosen to speak by the meeting host, could speak during the meeting. Moreover, participants in the June 3 Meeting informed the FBI that the meetings did not include discussions of child abuse or exploitation, terrorism, racism or incitements to violence.

120. Based upon law enforcement interviews and my review of electronic communications, including meeting invitations, early on or about June 3, 2020, I assess that Victim-9 inadvertently initiated the June 3 Meeting in a Company-1 meeting room using an incorrect meeting number (the "Incorrect June 3 Meeting") that had not been circulated to any of the invited participants.

121. Information obtained from Company-1 indicates that Victim-9 created the meeting room and meeting number for the Incorrect June 3 Meeting on or about June 2, 2020 at approximately 7:53 PM EDT. On or about June 3, 2020, JULIEN JIN exchanged electronic messages with a Company-1 employee based in San Jose ("Employee-4") who had previously aided JULIEN JIN after JULIEN JIN lost access privileges to, among other things, customer data in the United States. JULIEN JIN had also previously discussed with Employee-4 JULIEN JIN's work on the risk management of political issues for Company-1 with the PRC authorities.

122. On or about June 3, 2020, at approximately 4:19:22 AM EDT, JULIEN JIN asked if he could have a meeting [with Employee-4] for a few minutes about a "6.4" issue. At approximately 4:19:41 AM EDT, Employee-4 started a Company-1 meeting with

JULIEN JIN that lasted until approximately 4:26:14 AM EDT. During this meeting, from approximately 4:19:59 AM EDT until approximately 4:22:09 AM EDT, Employee-4 used the "screen share" feature in the Company-1 meeting with JULIEN JIN, allowing JULIEN JIN to see the content on the monitor of the device Employee-4 was using in the meeting.

123. On or about June 3, 2020, at approximately 4:20:45 AM EDT, JULIEN JIN sent Employee-4 a message that included the email address associated with Victim-9's Company-1 account. Company-1's network logs indicated that at approximately 4:21 AM EDT, Employee-4 used his/her access privileges to log into and access Victim-9's Company-1 account. Through the screen share feature, the information visible to JULIEN JIN in the PRC from Employee-4's monitor in the United States would have included the meeting information and meeting link to the meeting number created by Victim-9 for the Incorrect June 3 Meeting that had not been circulated to anyone outside of Company-1.

124. In an interview with the FBI, Employee-4 noted that during his/her meeting with JULIEN JIN on June 3, 2020, JULIEN JIN stated that he had received a request from the PRC government that Victim-9's account was suspicious. JULIEN JIN asked Employee-4 to check on the account. Employee-4 told the FBI that he/she checked Victim-9's account but did not find any indicators of fraud or any signs of abnormal behavior associated with the account. Further, since Victim-9's account was in Company-1's U.S. cluster, Employee-4 stated as much to JULIEN JIN and directed him to Company-1's legal department.

125. On or about June 3, 2020, at approximately 6:25 AM EDT, JULIEN JIN sent an electronic message to the Compliance Group, stating that PRC law enforcement officials had notified him of an upcoming "political" meeting on Company-1's platform and

provided the meeting number for the Incorrect June 3 Meeting. JULIEN JIN's notification included the information that the meeting would occur at "7:00 AM New York" and referenced the meeting number for the Incorrect June 3 Meeting. JULIEN JIN recounted that the PRC officials requested that the meeting not be shut down immediately, as PRC law enforcement officials intended to use a public link to monitor the content of the meeting for evidentiary purposes. According to the instructions, after 20 to 30 minutes, the meeting could be terminated.

126. Based upon information obtained from email service providers, shortly before the aforementioned 7:00 AM EDT start time for the June 3 Meeting, HUANG YIWEN conducted internet searches related to reporting TOS violations to Company-1:

a. On or about June 3, 2020, between approximately 6:41 AM and 6:45 AM EDT, an individual logged in to an account created on or about May 23, 2020 (the "QAA Account) conducted searches in English for "violence," "violence picture," and "gambling website," and in Chinese for "bloody violence picture," "violence picture," and "big breasts."

b. Between approximately 6:48 AM and 6:50 AM EDT that same day, an individual logged into a second account (the "HUH Account") conducted internet searches in Mandarin Chinese for reporting a violation of the terms of use to the Company-1 help center and Company-1 support.

127. Based on witness interviews and metadata obtained from Company-1, Victim-9 started the Incorrect June 3 Meeting at approximately 7:04 AM EDT from Victim-9's Company-1 account. Since none of the invited participants had received the details of the meeting room for the Incorrect June 3 Meeting, none participated in the Incorrect June 3 Meeting. However, there were other participants besides Victim-9 in the Incorrect June 3 Meeting who appear to have used Company-1 profiles associated with nonexistent email

accounts or email accounts that appear to have been created by co-conspirators for the purpose of disrupting the meeting.

128. By approximately 7:30 AM EDT, and due in part to confusion with the meeting numbers, the June 3 Meeting had moved from the Incorrect June 3 Meeting room to a room hosted by another individual who had participated in the 1989 Tiananmen Square protests, which individual was located in the Washington, D.C. area ("Victim-10"). Other participants in the meeting included residents of the Eastern District of New York. The decision to switch the host from Victim-9 to Victim-10 was a spontaneous decision and had not been planned prior to June 3, 2020.

129. On or about June 3, 2020, between approximately 7:33 AM and 7:41 AM EDT, four electronic complaints in English were submitted to Company-1's automated, internet-based system for reporting the contents of a Company-1 meeting. The complaints identified the host account for the June 3 Meeting and referred to "disgusting pics," "child abuse" and "inciting violence." Notably, all four complaints referenced the email address associated with Victim-9's Company-1 account, rather than the Company-1 account of the Victim-10 who was actually hosting the meeting at the time. Additionally, the four complaints referenced specific times of the alleged abuses (7:00 PM or 7:30 PM), yet these times do not correlate with the timing of the Incorrect June 3 Meeting and also appear to reflect a PRC time zone. Notably, at approximately 7:38 AM EDT and 7:45 AM EDT, two complaints from email accounts discussed further below (the "Foreign Accounts") were sent to the Company-1 email address established for reporting possible violations of the TOS. These complaints stated that Victim-9's Company-1 account was being used to incite racial division, violence and resistance. Moreover, although the June 3 Meeting was conducted in

Chinese—except for a prayer that was given in German but translated into Chinese—all of these complaints were made in English.

130. Based upon information obtained from email service providers, two of the aforementioned complaints were associated with an email address created in the name of an individual who resides in Japan and is a vice-president of a group established in 1989 to promote democracy in the PRC ("Victim-11"). The email account in the name of Victim-11 was created on or about June 3, 2020 at approximately 6:32 AM EDT, shortly before the complaints were filed. The email account in the name of Victim-11 is also associated with a Company-1 account in the name of Victim-11, which account attended some iterations of the June 3 Meeting.

131. Based on my training, experience, and knowledge of the investigation to date, I assess that members of the conspiracy created a Company-1 account designed to make it look as if an individual critical of the PRC government was attending the June 3 Meeting. The other complaints described above in the preceding paragraph are also associated with email accounts created between approximately 4:23 AM and 6:32 AM EDT on or about June 3, 2020—shortly before the complaints were submitted. Victim-11 confirmed that he/she had not used Company-1's platform since approximately 2019 after an incident trying to use Company-1's platform led to Victim-11's suspicion the CCP might be watching him/her, and therefore Victim-11 did not attend the June 3 Meeting and did not submit the complaint referenced above

132. Based upon my review of information provided by email service providers, other electronic communications and my training and experience, HUANG

YIWEN created and used several different email accounts in furtherance of the conspiracy's activities on June 3, 2020, and June 4, 2020. Specifically:

a. HUANG YIWEN used an email account created in her own name (the "HYW Account"). The subscriber name for that account is in the name "Nicole Huang." The initials "HYW" are contained in the name of the email account, and "HYW" appears to be an abbreviation of name "Huang Yiwen." According to information from a social media company, HUANG attended a university in Shaoxing, Zhejiang Province, PRC. According to information provided by an email provider, between March 14, 2020 and May 12, 2020, the user of the HYW Account accessed the website for a university in Shaoxing approximately 14 times.

b. On or about May 23, 2020, two email addresses were created within approximately 22 minutes of each other. Each of those accounts was created from the same IP address, which, according to open-source information, is hosted by an ISP in Hong Kong that provides internet service for residential customers. The first such account (the "QAZ Account") was subsequently updated to include HUANG YIWEN's personal email account, the HYW Account, as the "recovery" address. In addition, the "Recovery SMS" number and "Signin Phone Numbers" for the QAZ Account are the same telephone number. The last eight digits of that number are also contained, in the same order, in the email address associated with the QAZ Account.

c. On or about June 4, 2020, during the conduct described below, the HYW Account was accessed from a specific IP address at approximately 9:01 AM EDT. The QAZ Account was accessed from that same IP address approximately 17 minutes later, and then approximately two hours after that.

d. Another other account created on or about May 23, 2020 (the QAA Account)—created approximately 22 minutes before the QAZ Account—also was used in furtherance of the scheme on June 3, 2020 and June 4, 2020, as described below.

e. The QAZ Account was accessed from a particular IP address at approximately 8:54 AM and 9:50 AM EDT on or about June 4, 2020, as it was engaged in conduct discussed below. A fourth email account, also involved in the conduct discussed below (the "HUH Account"), was accessed from that same IP address at

approximately 8:57 AM, 9:00 AM, and 9:52 AM EDT that same day.

f. On or about and between May 22, 2020, and May 23, 2020, the HYW Account accessed multiple chat threads about current affairs on a Hong Kong-based forum website that, based on open-source records and my training and experience, is known as one of the platforms used by protesters against the CCP (the "Forum Website"). During that same time frame, the HUH Account accessed different chat threads on the Forum Website. Notably, although access from the two accounts occurred close in time—including at approximately 9:03 PM EDT for the HUH Account, 9:05 PM EDT for the HYW Account, and 9:06 PM EDT again for the HUH Account—no access by one account occurred at exactly the same time as access by the other account. Based on my training and experience and the foregoing, HUANG YIWEN switched back and forth between the two accounts to simultaneously track two threads of interest or to appear as if two different users were participating in discussions at the same time.

133. Based upon information obtained from an email service provider, on or about June 3, 2020, between approximately 7:51 AM and 8:38 AM EDT, HUANG YIWEN conducted internet searches with the HUH Account for "[Victim-9] [Company-1] meeting," for the names of other political opponents of the CCP who had protested the Tiananmen Square massacre, for a web translation function and for the name of an individual in Germany who was helping to organize the meeting with Victim-9.

134. Between approximately 8:14 AM and 8:25 AM EDT, HUANG YIWEN and others sent six emails to the Company-1 email address established for reporting possible violations of the TOS. Those emails, written in English, complained that Victim-10's account, which was then hosting Victim-9's meeting, was inciting racial conflicts, violence and resistance:

a. At 8:14 and 8:15 AM EDT, HUANG YIWEN and others used the Foreign Accounts to write that Victim-10's account "incited, racial

conflicts, incited violence and resistance." The subjects and content of both emails were identical.

b. At 8:23 AM EDT, the QAA Account wrote that the host account for that meeting "is constantly inciting racial conflicts, inciting violence."

c. At 8:25 AM EDT, the HUH Account wrote: "I need to report that [the user of the host account] is a suspected organice of a meeting that incites racial discrimination."

d. The other two emails, at 8:15 and 8:18 AM EDT, reported that the host account "is inciting racial conflicts, inciting violence and resistance" and "is constantly inciting racial conflicts, inciting everyone to fight violently." Those two emails were sent from the same account (the "WB Account").

The WB Account was created on or about June 3, 2020 using an IP address hosted by a company in Singapore. IP addresses hosted by that company were also used to create three other email accounts on or about June 3, 2020, each of which accounts was used in an apparent attempt to trigger Company-1 TOS violations on June 4, 2020, as discussed below.

135. Notwithstanding the complaint emails from the QAA Account and the HUH Account, based upon interviews with meeting participants and my review of electronic data gathered in the investigation, no user associated with either email address attended the June 3 Meeting on Company-1's platform.

136. Between approximately 7:53 and 7:56 AM EDT, JULIEN JIN sent electronic messages to the Compliance Group containing two images, the first of which included Victim-9's name, the name of Company-1 and "2020/6/3"—a reference to the June 3 Meeting. The second image contained a screenshot from the June 3 Meeting. JULIEN JIN wrote "meeting!" and asked the U.S.-based employees to suspend the relevant account. It is not clear how JULIEN JIN was aware that the June 3 Meeting hosted by Victim-10 was

taking place. Nonetheless, JULIEN JIN urged the Compliance Group to shut down the account hosting the June 3 Meeting—which, at that time, JULIEN JIN appeared to still believe was being hosted by Victim-9 rather than Victim-10—telling them that the meeting was in progress and warning them that the "cyberspace people" were waiting for Company-1's response. In the context of the investigation, and based on the foregoing, "cyberspace people" refers to officers of the MSS and/or the MPS.

137. At approximately 8:13:10 AM EDT, JULIEN JIN sent messages to the Compliance Group with a link to the June 3 Meeting room and the meeting room number for the meeting hosted by Victim 9. It is not clear how JULIEN JIN obtained this information as his access to U.S.-based customer data had been revoked. Notably, JULIEN JIN requested suspension of the meeting host's account before Company-1 had received any complaints specific to Victim-10 (which first arrived at 8:14 AM EDT). In the Compliance Group chats, Employee-3 reported that he/she had terminated the meeting at approximately 8:16:58 AM EDT and "locked" Victim-10's account.

138. Though JULIEN JIN successfully caused termination of the meeting by claiming that Company-1 had received complaints of purported TOS violations, the complaints emailed on or about June 3, 2020 were not sent to JULIEN JIN's email address, but rather to a generic U.S.-based email mailbox (violation@[Company-1].us) and a Company-1 complaint desk. Notably, the same group of accounts that emailed complaints directly to JULIEN JIN's personal Company-1 email address on or about June 4, 2020 (discussed below) were similarly responsible for the June 3, 2020 complaints sent to <<violation@[Company-1].us>>.

139. Although JULIEN JIN brought the June 3, 2020 complaints to the attention of other Company-1 employees, none of those complaints appear to have been sent to his work account, and the investigation has not identified any way he would have had reason to know of the existence of the complaints if he were not involved in or aware of the scheme of manufacturing pretextual complaints to cause terminations of meetings and accounts.

140. After learning that the June 3 Meeting had been shut down, JULIEN JIN thanked the other employees and noted at approximately 8:23 AM EDT—nine minutes after the complaints were first lodged against Victim-10—"We reported several abuse for this meeting. So we may refer to this they against tos."

141. As the June 3 Meeting hosted by Victim-10 restarted again in a new meeting room hosted by Victim-9's Company-1 account, CLO-1 asked JULIEN JIN if there was proof the PRC authorities asked JULIEN JIN to shut the meeting down. JULIEN JIN responded by pasting the same open-source information he pasted earlier with Victim-9's email address and stated, "Authorities want use to make sure no more such anti-CN political public meetings." CLO-1 asked how JULIEN JIN knew this was out of the PRC since the analysis of IP activity, billing and other indicators showed Victim-9's account was for a U.S.-based user. JULIEN JIN replied, "I think they're fake. They speak chinese, not english." CLO-1 responded that they could not shut down a U.S.-based account based on a Chinese law enforcement request. JULIEN JIN warned that the "cyber people here," which likely included MPS officers and CAC officials such as FU YIBIN, JIN TAO, SHEN ZHENHUA, SONG GUORONG, TIAN XINNING and XU WEI, believed that Company-1 should take "all measures to terminate illegal activities by ourselves."

142. In the same message, CLO-1 replied that was not possible since Company-1 could not apply "Chinese law to other countries," even though the Compliance Group had just applied PRC law to shut down the meeting hosted by Victim-10. Though JULIEN JIN had no way of knowing any of the details of the June 3 Meeting participants, JULIEN JIN made the unsubstantiated claim, "That kind meetings has lots of Chinese participants, with China ip." CLO-1 responded that Employee-3's analysis of the meeting participants indicated they were all from the United States and countries other than the PRC. Indeed, to the extent there was any participation from the PRC in an iteration of the June 3 Meeting, it appeared to have been from JULIEN JIN's co-conspirators. JULIEN JIN continued, advising that "Yesterday's similar political meeting," which may have been a reference to the May 31, 2020 meeting hosted by Victim-6 for Victim-5, "has more than 1000 participants and some are China ip," information JULIEN JIN would not have known absent Employee-1, Employee-2 and other Company-1 employees in the United States.

143. One of JULIEN JIN's subordinates in the PRC later sent an electronic message to JULIEN JIN and other employees assigned to the Company-1 group responsible for monitoring the use of Company-1's platforms for the expression of political views unacceptable to the PRC government, asking if the PRC "internet police," a reference to the MPS, was satisfied with the group's measures on June 3, 2020.

The June 4, 2020 Meeting

144. As set forth in this section, on or about June 4, 2020, individuals associated with another participant in the 1989 student protests at Tiananmen Square ("Victim-12") organized a meeting on Company-1's platform to commemorate the event. Throughout the course of several hours on or about June 4, 2020, the meeting was shut down

twice by Company-1, and then restarted by the organizers in a series of different meeting rooms on Company-1's platform. The June 4 meeting or meetings are collectively referred to as the "June 4 Meeting." The meeting or meetings were all hosted by individuals located in the Eastern District of New York, who had gathered in a single residence for purposes of participating in and hosting the June 4 Meeting. Victim-12 was participating in the June 4 Meeting from his/her residence in the Washington, D.C. area.

145. Based upon interviews conducted during this investigation, the first host of the June 4 Meeting ("Victim-13") was him/herself a protester during the Tiananmen Square massacre. On or about May 29, 2020, Victim-13 upgraded his/her paid Company-1 account for an additional fee for enhanced functionality to accommodate a request by a prominent non-governmental organization to simultaneously broadcast the June 4 Meeting. Based upon interviews conducted during this investigation, Victim-13 was not aware of Company-1's actions to shut down the June 3 Meeting and would not have hosted the June 4 Meeting on Company-1's platform had he/she been aware of those actions.

146. In addition, the June 4 Meeting was publicly advertised and organized to occur on the Company-1 platform specifically to encourage participation by PRC individuals. Moreover, based upon interviews conducted during this investigation, organizers of the June 4 Meeting created a list of designated speakers, and instituted settings for the meeting that would prevent non-designated speakers from disrupting the meeting with verbal outbursts—a common way PRC authorities disrupted dissident political speech during past commemorations of the Tiananmen Square massacre. Organizers also instituted settings within the Company-1 platform to screen out potentially suspicious usernames that could be PRC government representatives seeking to infiltrate the meeting.

147. As described below, HUANG YIWEN used at least three email accounts—the HUH Account, QAZ Account and QAA Account—in an effort to disrupt the June 4 Meeting. Each of those accounts emailed JULIEN JIN's work address to report purported violations of Company-1's TOS related to the June 4 Meeting. Notably, JULIEN JIN's work email address is not listed by Company-1 in any publicly available website as an email address to which to direct concerns about TOS violations, but, as discussed above, JULIEN JIN's email had been provided as a primary contact to the PRC government as part of Company-1's rectification following the block in 2019. Indeed, as discussed above, Company-1 has established a specific and well-publicized email account for reporting such concerns. Additionally, based on the investigation to date, JULIEN JIN does not appear to have had any other direct communication with the accounts used to send the false reports. Accordingly, it appears that HUANG and other possible co-conspirators obtained JULIEN JIN's email address directly from the rectification report, from other PRC government official(s) communicating with JULIEN JIN or from JULIEN JIN himself through some other means of communication.

148. On or about June 4, 2020, at approximately 3:53 AM EDT, JULIEN JIN notified the Compliance Group in an electronic message of another "serious June 4th meeting by [Victim-12] (Today)," noted that Victim-12 "is a lead of such illegal political activities," and asked, "Could we do something to prevent subsequent huge influence on us? Eg, Terminate or temply [temporarily] suspend that account for 24 hours until 06/05 as TOS violation?" JULIEN JIN included a social media post from Victim-12 with the details for the meeting hosted on Victim-13's account. CLO-1 replied, "Yes. Let me look at it."

149. At approximately 8:25 AM EDT, after Company-1 had not yet shut down the meeting, JULIEN JIN suggested: "Put them into QUAR [quarantine] is another approach, as if [Company-1] is having server issues . . . About 24 hours later you could recover that . . . It's a public meeting , so we could join and report to [Company-1 U.S.] as abuse meeting, then you US may have evidence to suspend it." Notably, metadata regarding the meeting suggests that one of JULIEN JIN's subordinates in the PRC attended iterations of the June 4 Meeting.

150. CLO-1 replied, "Ok. Calling team." In an interview with the FBI, CLO-1 described that the focus was on identifying where Victim-12 was located. CLO-1 was unfamiliar with Victim-12 and made a telephone call to Employee-1. During the call, CLO-1 asked Employee-1 if Victim-12 was "Chinese," by which CLO-1 meant located in the PRC, and if Victim-12 was famous. Employee-1 replied in the call that Victim-12 was "super famous."

151. However, Victim-12 was not the original host of the June 4 Meeting. Had CLO-1 and Employee-1 used the available tools to analyze the identifiers provided by JULIEN JIN associated with Victim-13's account, i.e., the account that actually hosted the June 4 Meeting, CLO-1 and Employee-1 would likely have reached the conclusion that Victim-13 was a U.S.-based user. Instead, after receiving JULIEN JIN's request to shut down the June 4 Meeting and fearing another shutdown of Company-1's services in the PRC, CLO-1 authorized Employee-1 to take action. Employee-1 subsequently terminated Victim-13's account before the actual commemoration of the Tiananmen Square massacre had begun.

152. Based upon interviews conducted in this investigation and my review of electronic data gathered during the investigation, after that iteration of the June 4 Meeting was terminated and Victim-13's account cancelled, the June 4 Meeting organizers upgraded a free Company-1 account to a paid one with different subscriber information in order to shield the account from scrutiny by the PRC government, and used the account to initiate a new meeting in a different meeting room on Company-1's platform. This tactic was unsuccessful—JULIEN JIN thereafter notified Employee-1 of the creation of the new meeting.

153. Again, based upon information provided by email service providers, HUANG YIWEN's search activity suggests that members of the conspiracy used false complaints to terminate the second iteration of the June 4 Meeting. That information also shows that, starting at approximately 8:41 AM EDT and while logged into the HUH Account, HUANG conducted an internet search for Company-1 video conferencing, followed approximately two minutes later with searches in Chinese for "naked girl" and "pornography" in an image database, and word searches for "naked girl," "naked girl images" and "IS pictures." There were also searches for "violence picture" and "gambling website." Based upon my training and experience, "IS" is a reference to the Islamic State of Iraq and al-Sham, or "ISIS," a foreign terrorist organization. Image searches were also conducted during the same time period for "naked girl" and "pornography."

154. At approximately 9:00:06 AM EDT and using the HYW Account, HUANG YIWEN searched for "Company-1." At 9:00:20 AM EDT and still using the HYW Account, HUANG visited Company-1's website.

155. Using the HUH Account, the QAA Account and the QAZ Account, HUANG YIWEN then emailed Company-1 about purported violations of Company-1's TOS related to the second June 4 Meeting:

a. At approximately 9:57 AM EDT, the HUH Account sent an email to JULIEN JIN's work email with the subject "Someone in this group incites terrorism and violence." The email stated that someone in the June 4 Meeting was inciting terrorism and violence. The email contained an image that appears from my review to be a screenshot of user profiles from three meetings stacked on top of each other. The screenshots included: (1) a Company-1 profile with the name "Kate Steve" and a picture including the motto and iconography of the Basque separatist group Euskadi Ta Askatasuna ("ETA");[17] (2) a Company-1 profile in the name of a real person who is known for authoring a book about the PRC government's censorship efforts ("Real Person-1") and a picture of what appeared to be a group of Islamic clerics standing in front of darkly clad and masked men holding weapons; and (3) a Company-1 profile with the name "Free man" and picture of a masked person holding a flag resembling that of the Islamic State terrorist group.

b. At approximately 9:59 AM EDT, the HUH Account sent two emails to JULIEN JIN with the same subject, "Someone in this group incites terrorism and violence." The first email also included the meeting number for the June 4 Meeting. The second email also contained what appears from my review to be the same images depicted in the email sent at 9:57 AM EDT.

c. Between approximately 9:30 AM and 10:16 AM EDT, a participant with the profile name "Kate Steve," using the QAA Account, entered the June 4 Meeting. The profile picture for "Kate Steve" was the picture associated with ETA discussed above.

d. At approximately 9:49 AM EDT, the QAA Account emailed the Company-1 email address for reporting TOS violations. The subject of the email was "[Victim-9 email account] this account is constantly inciting racial conflicts an violence and pornography." Significantly, although this email referred to Victim-9's email

[17] Based upon publicly available information, ETA has a history of conducting assassinations and kidnappings throughout Spain since 1968 that have resulted in the deaths of several hundred people.

account, Victim-9 did not attend the June 4 Meeting; instead, Victim-9 hosted the June 3 Meeting.

e. At approximately 9:57 AM EDT, the QAA Account emailed JULIEN JIN with a subject that identified Victim-9's email account and the sentence "This account is constantly inciting racial conflicts and violence." The email contained only an image of what appears from my review to be a screenshot of various users in a Company-1 meeting. The image included users identified as: the name of Real Person-1 with a profile picture of two naked women; "Free man," with a profile picture including an Islamic State flag; and another individual with a profile picture of an Islamic State flag. Again, although the email referred to Victim-9, Victim-9 did not attend the June 4 Meeting.

f. Between approximately 9:34 AM and 10:16 AM EDT, HUANG YIWEN used a Company-1 account associated with the QAZ Account and entered the June 4 Meeting.

g. At approximately 9:57 AM EDT, the QAZ Account emailed JULIEN JIN with the subject "report." The email indicated that an unidentified account "frequently incites violent and terrorist content." The email also provided what appears from my review to be a screenshot of a Company-1 meeting with profiles that included: a profile in the name of Real Person-1 with a picture of a card dealer, apparently to suggest some form of gambling; and several users, including "Free man," with images depicting the Islamic State flag.

h. Approximately four minutes later, the QAZ Account sent a second email to JULIEN JIN. The subject of the email was "the account frequent incites violent and terrorist content." The email included the same text as the earlier email and what appears from my review to be a similar screenshot of profiles in a Company-1 meeting.

i. As discussed above, during the June 4 Meeting, the QAZ Account and the HYW Account were accessed from the same specific IP address. During that same time period, the Company-1 profile associated with the QAZ Account was accessed from that same specific IP address. In addition, during that same time period, the QAZ Account and the HUH Account were accessed from another specific IP address. Another Company-1 account participating in the June 4 Meeting was also accessed from that same specific IP address.

156. Based upon information from email service providers, and the information set forth herein, some of the user accounts reported in the aforementioned email complaints were associated with email accounts created by members of the conspiracy. Most notably, the profile picture that was reported as inciting violence by the HUH Account was associated with the QAA Account. In other words, based upon my training and experience, HUANG YIWEN and members of the conspiracy introduced into the June 4 Meeting at least one image that purportedly incited violence and then reported the image they introduced. Moreover, the account for the user profile "Free man" associated with an email address (the "Free Man Account") created on or about June 3, 2020, from an IP address resolving to Singapore and hosted by the same company that hosted IP addresses used on or about June 3, 2020 to create other email addresses used by members of the conspiracy. In addition, based on information from email service providers and metadata from Company-1, the Free Man Account and two other accounts participated in the June 4 Meeting from the same electronic device; the Company-1 profiles associated with those two other accounts each showed a profile picture depicting an ISIS-related image.

157. In total, based upon my review of electronic communications obtained during the investigation, 14 email complaints related to the June 3 Meeting and the June 4 Meeting were sent to JULIEN JIN on or about June 4, 2020, between 9:54 AM and 10:16 AM EDT—a period of approximately 20 minutes. As set forth above, JULIEN JIN is not identified publicly by Company-1 as an individual to whom to email complaints about meetings, and his email address is not publicly displayed, although it was provided to PRC authorities. The emails to JULIEN JIN appeared to be from ten different complainants, but

based on the information set forth herein and my training and experience, I assess that they represented coordinated efforts by PRC-based co-conspirators including HUANG YIWEN.

158. Indeed, the complaints often used verbatim language, including identical spelling and grammatical mistakes and referencing the date June 4, 2019, rather than June 4, 2020, to complain about purported participants in the meetings who were promoting violence, pornography or Islamic terrorism, attached identical screenshots of user profiles with ISIS flags and used identical IP addresses. In addition, many of the complaints did not refer to a specific meeting on the Company-1 platform or included screenshots of meetings that had already lapsed; many of the screenshots had time stamps reflecting PRC time zones. Moreover, although the June 3 and June 4 Meetings were conducted in Chinese, all of the complaints were made in English. Based upon my review of publicly available information and the foregoing, I assess that these complaints were submitted in English because the individuals sending them knew that the likely decision-makers for terminating any meetings would be English speakers in the United States.

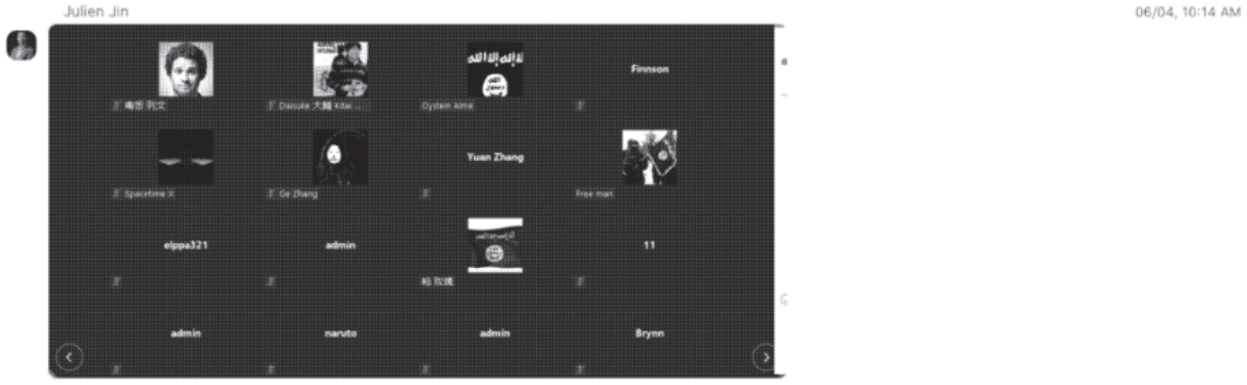
159. At approximately 9:42 AM EDT on or about June 4, 2020, JULIEN JIN sent a message to Company-1 employees monitoring content that included the expression of political views unacceptable to the PRC government, in which message JULIEN JIN told his subordinates that "there are so many of own people, friendlies." After one of JULIEN JIN's subordinates asked if the "friendlies" were from Company-1, JULIEN JIN replied that "Net Security," a reference to the MPS's Network Security Bureau, was "working overtime."

160. At approximately 10:05 AM EDT on or about June 4, 2020, shortly after some of the aforementioned email complaints had been sent, JULIEN JIN wrote to

various Company-1 employees: "We get report about Someone inside this group incites terrorism and violence . . . They also send such abuse info to [Company-1 U.S.] site, I think [a Company-1 employee's] tos team received that too." JULIEN JIN added, "there're IS [Islamic State] flag on someone's photo. Can you suspend that as terrorism and violence meetings ?"

161. After JULIEN JIN sent an electronic message with a screenshot of a user profile with the Islamic State flag as seen in Image 1 below, Employee-1 agreed to terminate the meeting as well as the paid account used to host Victim-12's meeting. Notably, based upon my familiarity with Company-1's platform, users of Company-1's platform appear to be able to change their profile pictures by selecting from images in the photo galleries of the users' devices; it is not clear if Company-1 allows users to store images in their Company-1 profiles. JULIEN JIN thanked Employee-1 and others for their immediate support. The image provided by JULIEN JIN appears from my review to be identical to images attached to two emails JULIEN JIN received at 9:54 AM and 10:00 AM EDT, from two different email addresses.

Image 1



162. JULIEN JIN later exchanged messages with his subordinates in the PRC monitoring content disfavored by the PRC government, notifying them of the ISIS flag in the June 4 Meeting. One of JULIEN JIN's subordinates, who was a participant in iterations of the June 4 Meeting, asked JULIEN JIN at approximately 11:42 AM EDT, "What the heck, ISIS?"—likely indicating the actual content had nothing to do with terrorism. The subordinate continued and asked JULIEN JIN, "So how was it, the Internet Police was satisfied with our measures yesterday?"

163. As noted above, the June 4 Meeting was configured so that only certain individuals, chosen to speak by the meeting host, could speak during the meeting. Moreover, participants in the June 4 Meeting have stated to FBI agents that the meetings did not include discussions of child abuse or exploitation, terrorism, racism or incitements to violence. The FBI also has reviewed a video of the meeting and observed that the only violence discussed in the meeting was the violence inflicted by the PLA on protesters at Tiananmen Square in 1989.

164. Based upon interviews conducted as part of this investigation, the termination of the June 4 Meeting has caused substantial emotional distress to participants in the meeting. For example, one of the speakers at the June 4 Meeting ("Victim-14") reported sending a chat message on or about June 3, 2020 to his/her father's account indicating that Victim-14 was going to participate in an event about the Tiananmen Square massacre. After sending the message, Victim-14 received a chat message on his/her account that Victim-14's account had violated the user agreement and was shut down. Additionally, approximately two weeks after the June 4 Meeting, the local MPS called the mobile telephone of Victim-14's father in the PRC. During the call, the MPS instructed

Victim-14's father to tell Victim-14 to stop speaking out against the CCP and to support socialism and the CCP. The MPS also inquired about Victim-14's life in the United States and asked when Victim-14 intended to return to the PRC.

165. As discussed above, other PRC government actions related to the pro-democracy discussions on the Company-1 platform in May and June 2020 also caused significant emotional distress to other participants, including to Victim-7. In interviews with the FBI, Victim-13 noted feeling helpless following the actions taken by Company-1 against meetings he/she organized. Victim-13 stated that these actions had taken place while he/she was in the United States using an American service. Victim-13 explained that he/she left the PRC to escape the PRC government's influence and persecution but was now experiencing it in the United States.

The Conspiracy's Use of the Names of Real Individuals

166. As alluded to above, members of the conspiracy used the names of real individuals to further their scheme. This aided their ability to infiltrate the June 3 Meeting and the June 4 Meeting, as the organizers of the meetings were screening for potential CCP representatives seeking to cause disruptions.

167. Information provided by the email service provider for the Free Man Account and Company-1 subscriber information shows that the account is linked to a Company-1 account used by the conspiracy to display images associated with ISIS and lists that the account was created in the name of Victim-5. Victim-5 has told the government that the email address is unfamiliar to him/her and that he/she never used the account. Based upon my familiarity with Company-1's platform, a Company-1 employee looking at

information associated with the Company-1 account, however, would have seen the name of the student leader in that email address as part of the information about the account.

168. The Company-1 account created in the name of Victim-11, associated with an email address in the name of Victim-11, similarly would have given the impression that an individual known to be critical of the PRC government was participating in the June 3 Meeting.

169. Finally, the Company-1 account associated with the name of Real Person-1 was used to display various images associated with terrorism and pornography. As noted above, based upon publicly available information, Real Person-1 is a writer known for publishing a book about PRC government censorship and is associated with a news publication regarding Tibet. As a result, upon information and belief, members of the conspiracy used Real Person-1's name in order to gain entry to the meeting—because meeting organizers who were screening participants would not have rejected the actual Real Person-1—and to give the impression that Real Person-1 was actually participating in the meeting when he/she was not.

Continued Efforts to Terminate Meetings and Accounts

170. On or about June 5, 2020, JULIEN JIN notified U.S.-based Company-1 employees of his receipt of a message from the "CN cybersecurity"—a reference to the CAC and/or the MPS—indicating that 48 communications platforms had failed to take instant action on illegal content in the "June 4th" period and were thereafter fined or forced offline by PRC authorities. Thereafter, Employee-1 terminated two of the accounts that hosted one

of the U.S.-based meetings commemorating the anniversary of the Tiananmen Square massacre, based on purported TOS violations.

171. In electronic messages sent to the Compliance Group, in response to CLO-1's and CCO-1's requests for JULIEN JIN to provide documentation detailing all the PRC law enforcement requests he had received in connection with the action taken against accounts hosting Tiananmen Square anniversary meetings, JULIEN JIN claimed that there was no legal documentation for the PRC government requests to terminate the "June 4th political accounts." Rather, JULIEN JIN wrote that Company-1 should indicate that "Incites terrorism and violence" was the basis for the termination of the accounts, meaning that the users committed TOS violations.

172. CCO-1 has informed the FBI that JULIEN JIN repeatedly ignored CCO-1's authority, as JULIEN JIN regularly bypassed CCO-1 and CLO-1 by engaging directly with Employee-1 and CEO-1 despite being admonished by CLO-1 against doing so. Additionally, following the events of June 3, 2020, and June 4, 2020, JULIEN JIN expressed to CCO-1 that he did not feel the need to respond to or report to CCO-1.

Continued CAC, MPS, and MSS Requests of Company-1

173. In approximately December 2020, Company-1 terminated JULIEN JIN's employment. However, XU WEI, CHEN YUANYUAN and other officials with the CAC, MPS and MSS continued to make requests of Company-1 related to "illegal" content, including commemorations of the 32nd anniversary of the Tiananmen Square massacre on or about June 4, 2021. There is no indication Company-1 acted on these requests.

174. On or about March 23, 2021, Company-1 received a call from an official with the CAC in Shanghai regarding "illegal," politically sensitive meetings

occurring on Company-1's platform. The Shanghai CAC official provided Company-1 with Twitter handles and key words associated with the launch of these meetings and requested Company-1 block users from within the PRC. Also on March 23, 2021, XU WEI and other officials with the CAC, MPS and MSS in Hangzhou asked for someone at Company-1 to be made "available" and inquired about Company-1's capabilities for handling "illegal" meetings.

175. On or about May 24, 2021, an official with CAC in Beijing contacted an employee of Company-1 and requested vigilance on "sensitive" upcoming meetings on Company-1's platform, a reference to the approaching anniversary of the Tiananmen Square massacre. The CAC official in Beijing made specific mention of an upcoming event in Hong Kong that would feature Victim-12.

176. On or about June 3, 2021, a Company-1 employee received a call from CHEN YUANYUAN and another CAC official in Hangzhou, who conveyed a request to terminate a meeting on Company-1's platform commemorating the Tiananmen Square massacre organized by Victim-5 and Victim-5's organization.

WHEREFORE, your deponent respectfully requests that arrest warrants issue so that the defendant JIN XINJIANG (金新江), also known as "Julien Jin," CHEN YUANYUAN (陈媛媛), FU YIBIN (傅一彬), HUANG YIWEN (黄奕雯), also known as "Nicole Huang," JIN TAO (金涛), LIU ZHIYANG (刘智洋), SHEN ZHENHUA (沈振华),

SONG GUORONG (宋国荣), TIAN XINNING (田心宁) and XU WEI (徐威), may be dealt with according to law.

Joseph Hugdahl

JOSEPH HUGDAHL
Special Agent
Federal Bureau of Investigation

Sworn to me through the transmission of this
Affidavit by reliable telephonic and electronic means
pursuant to Federal Rule of Criminal Procedure 4.1, this
6 th day of April, 2023

[redacted]

THE HONORABLE SANKET J. BULSARA
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

EXHIBIT 11

DMP:AAS/ICR/NJM/JKW
F. #2023R00138

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
- X

UNITED STATES OF AMERICA

- against -

BAI YUNPENG (白云鹏),
CHEN ZHICHEN (陈之琛),
GAO CAINAN (高彩楠),
GAO HONGTING (高宏亭),
HU XIAOHUI (呼啸慧),
HUANG CHUNHUI (黄春晖),
JIN YI (金乙),
JU QIANG (居强),
LI BOLUN (李博伦),
LI XUAN (李轩),
LI XUEYANG (李雪阳),
LI ZHEFENG (李哲峰),
LIANG SHUANG (梁爽),
LIN YUQIONG (林玉琼),
also known as "Lin Huishan (林慧姗),"
LIU ZHAOXI (刘朝夕),
MIAO SHIHUI (苗世辉),
SHI LIANGTIAN (史粮田),
SONG YANG (I) (宋杨),
SONG YANG (II) (宋阳),
TAN JINYAN (覃金燕),
WANG CHUNJIE (王春杰),
WANG SHIPENG (王士朋),
WEN JIANXUN (温建勋),
XI SHUO (西硕),
XI YUE (袭岳),
also known as "Qi Dong (齐栋),"
XU YANAN (徐亚楠),
XU ZHEN (徐震),

COMPLAINT AND AFFIDAVIT IN SUPPORT OF APPLICATION FOR ARREST WARRANTS

(T. 18, U.S.C., § 371)

No. 23-MJ-0334 (SJB)

XUE WENFENG (薛文峰),
also known as "Feng Xu (徐丰),"
YANG DALIN (杨大林),
YANG MIAO (杨淼),
YIN YINA (尹贻娜),
YU MIAO (余苗),
ZHANG DI (张迪) and
ZHOU GUOQIANG (周国强),

Defendants.

- X
EASTERN DISTRICT OF NEW YORK, SS:

JOSEPH HUGDAHL, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

CONSPIRACY TO TRANSMIT INTERSTATE OR FOREIGN THREATS

In or about and between 2016 and the present, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants BAI YUNPENG (白云鹏), CHEN ZHICHEN (陈之琛), GAO CAINAN (高彩楠), GAO HONGTING (高宏亭), HU XIAOHUI (呼啸慧), HUANG CHUNHUI (黄春晖), JIN YI (金乙), JU QIANG (居强), LI BOLUN (李博伦), LI XUAN (李轩), LI XUEYANG (李雪阳), LI ZHEFENG (李哲峰), LIANG SHUANG (梁爽), LIN YUQIONG (林玉琼), also known as "Lin Huishan (林慧姗)," LIU ZHAOXI (刘朝夕), MIAO SHIHUI (苗世辉), SHI LIANGTIAN (史粮田), SONG YANG (I) (宋杨), SONG YANG (II) (宋阳), TAN JINYAN (覃金燕), WANG CHUNJIE (王春杰), WANG SHIPENG (王士朋), WEN JIANXUN (温建勋), XI SHUO (西硕), XI YUE (袭岳), also known as "Qi Dong (齐栋),"

XU YANAN (徐亚楠), XU ZHEN (徐震), XUE WENFENG (薛文峰), also known as "Feng Xu (徐丰)," YANG DALIN (杨大林), YANG MIAO (杨淼), YIN YINA (尹贻娜), YU MIAO (余苗), ZHANG DI (张迪) and ZHOU GUOQIANG (周国强), together with others, did knowingly and willfully conspire to transmit in interstate and foreign commerce one or more communications containing one or more threats to injure the person of another, contrary to Title 18, United States Code, Section 875(c).

(Title 18, United States Code, Section 371)

CONSPIRACY TO COMMIT INTERSTATE HARASSMENT

In or about and between 2016 and the present, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants BAI YUNPENG (白云鹏), CHEN ZHICHEN (陈之琛), GAO CAINAN (高彩楠), GAO HONGTING (高宏亭), HU XIAOHUI (呼啸慧), HUANG CHUNHUI (黄春晖), JIN YI (金乙), JU QIANG (居强), LI BOLUN (李博伦), LI XUAN (李轩), LI XUEYANG (李雪阳), LI ZHEFENG (李哲峰), LIANG SHUANG (梁爽), LIN YUQIONG (林玉琼), also known as "Lin Huishan (林慧姗)," LIU ZHAOXI (刘朝夕), MIAO SHIHUI (苗世辉), SHI LIANGTIAN (史粮田), SONG YANG (I) (宋杨), SONG YANG (II) (宋阳), TAN JINYAN (覃金燕), WANG CHUNJIE (王春杰), WANG SHIPENG (王士朋), WEN JIANXUN (温建勋), XI SHUO (西硕), XI YUE (袭岳), also known as "Qi Dong (齐栋)," XU YANAN (徐亚楠), XU ZHEN (徐震), XUE WENFENG (薛文峰), also known as "Feng Xu (徐丰)," YANG DALIN (杨大林), YANG MIAO (杨淼), YIN YINA (尹贻娜), YU MIAO (余苗), ZHANG DI (张迪) and ZHOU GUOQIANG (周国强), together with

others, did knowingly and willfully, and with the intent to harass, intimidate, and place under surveillance with the intent to harass and intimidate one or more persons, conspire to use one or more interactive computer services and electronic communication systems of interstate commerce, and one or more other facilities of interstate and foreign commerce to engage in a course of conduct that caused, attempted to cause and would be reasonably expected to cause substantial emotional distress to one or more persons and their immediate family members, contrary to Title 18, United States Code, Section 2261A(2)(B).

(Title 18, United States Code, Section 371)

The source of your deponent's information and the grounds for his belief are as follows:[1]

1. I have been employed as a Special Agent by the Federal Bureau of Investigation ("FBI") for over ten years. During my tenure with the FBI, I have participated in numerous investigations, during the course of which I have, among other things: (a) conducted physical and electronic surveillance, (b) executed search warrants, (c) reviewed and analyzed recorded conversations and records, and (d) debriefed cooperating witnesses. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file; and from reports of other law enforcement officers involved in the investigation.

2. The statements attributed to individuals in this Affidavit are set forth in sum, substance and in part unless otherwise indicated. Unless otherwise indicated, all

[1] Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

quoted communications described herein are draft translations of written Chinese or spoken Mandarin-Chinese. I have personally reviewed each of the electronic communications, including emails and chat messages, described in this Affidavit, and participated personally in some of the interviews discussed herein. My knowledge of other interviews is based upon my review of reports and conversations with other law enforcement officers.

I. The PRC Government's Online Activities

A. Suppression of Political Dissent and Religious Speech and Dissemination of Propaganda

3. The People's Republic of China ("PRC") is a one-party state whose government is entirely controlled by the Chinese Communist Party ("CCP").[2] While the constitution and laws of the PRC government purport to guarantee PRC citizens the freedom of speech, the CCP regards any political dissent as a threat not only to its own political interests, but also to the PRC's one-party system of government itself. Thus, the PRC government's national security and law enforcement agencies regard political dissent as a national security threat and routinely monitor and actively censor political speech inconsistent with CCP-approved political viewpoints, as well as speech that threatens to damage the reputation of the PRC government or the CCP, or threatens to undermine the PRC's CCP-dominated social order.

4. The CCP's "unapproved" topics can range from discussions about the overthrow of the CCP's control of the PRC government and the statuses of the Hong Kong Special Administrative Region and the Republic of China—commonly referred to as

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[2] The information set forth in this section is based on my review of publicly available information and my experience investigating numerous cases involving the PRC.

Taiwan—to remarks on CCP General Secretary Xi Jinping's apparent resemblance to the fictional cartoon character Winnie the Pooh. The modern "Five Poisons" of the CCP—typically associated with Uighurs, Tibetans, adherents of Falun Gong spiritual practice, pro-democracy dissidents, and advocates for the independence of the Taiwan—are especially sensitive topics to the CCP.

5. The June 4, 1989, Tiananmen Square massacre is another politically sensitive topic of discussion that is routinely censored by the PRC government. On the night of June 3, 1989, and into the morning of June 4, 1989, following weeks of large student-led protests advocating political and other reforms in the PRC's CCP-controlled system of governance, the People's Liberation Army ("PLA") violently crushed the protesters at Tiananmen Square and surrounding areas in Beijing, PRC during a state of martial law. The PLA's crackdown led to the deaths of hundreds of PRC citizens and was widely condemned as a massacre.

6. The PRC government also prohibits unauthorized religious activities, including online religious discussions. The PRC government requires religious groups to register with government authorities and restricts religious activities by both registered and unregistered religious groups. Collective or large-scale religious activities held outside of registered religious facilities, for example, are strictly restricted, and religious activities by unauthorized religious groups are likewise prohibited. The PRC government imposes criminal penalties on religious groups it deems to be "cults" and uses these laws to persecute

and suppress the free exercise of religious expression by members of religious groups opposed by the CCP.

7. A primary focus of the PRC government's censorship scheme is the control of information that is available to PRC nationals within the PRC. With the advent of the digital age, the PRC government built a system of controls informally known as the "Great Firewall of China" (the "GFW"). Operated and enforced primarily by the Cyberspace Administration of China and the PRC's Ministry of Public Security ("MPS"), the GFW has the capability to block Internet access within the PRC to particular servers and applications and is used to monitor and prevent PRC citizens from accessing Internet platforms and services that might allow for the dissemination and discussion of information that runs afoul of messaging approved by the PRC government and the CCP.

8. The PRC government's efforts to censor political dissent do not end at the PRC's national borders. Indeed, the PRC government and the CCP have identified the unchecked use of foreign social media sites beyond the jurisdiction of the GFW as a threat because of content that portrays the PRC and the CCP negatively. Although the MPS is generally identified as the PRC's primary domestic law enforcement agency—responsible for public safety, general criminal investigation, national security and Internet security—its mission extends beyond law enforcement and into functions more associated with an intelligence service. The MPS routinely monitors, among others, Chinese political dissidents who live in the United States and in other locations outside the PRC. The MPS regularly uses cooperative contacts both inside the PRC and around the world to influence, threaten and coerce political dissidents abroad. Indeed, I am aware that the PRC

government has threatened and coerced Chinese political dissidents living in the United States in an effort to silence them.

9. Recommendations in an MPS proposal from March 2020 obtained in the investigation reflect the broad reach of the PRC government's censorship efforts. Noting that most foreign reports about the PRC are negative (which purportedly reflects backlash against the PRC's global ascent), and that Twitter content accounts for approximately 80 percent of the attacks on the PRC and the CCP, the proposal recommends instituting countermeasures to monitor dissent on foreign social media platforms, including Twitter. The proposal's main goal is the construction of an Internet data mining system to monitor for Chinese-language Twitter users who make political comments, to promptly survey their activities, and uncover and track the identities of related individuals and covert political organizations and groups through a database of email and telephone identifiers. Notably, the proposal recommends collecting and categorizing relevant political posts, as well as conducting real-time monitoring of overseas Chinese-language account data to promptly discover political tweets and major public opinion events.

10. The PRC government also engages in active measures to shape public perception, both domestically and abroad, through broad dissemination of propaganda and narratives favored by the PRC government via official state social media accounts, as well as anonymized fake accounts that often appear to belong to users located outside of the PRC.

B. The MPS's "912 Special Project Working Group"

11. The government's investigation has revealed that the MPS carries out these objectives in part through an initiative of the MPS that is referred to internally as the "912 Special Project Working Group" (the "Group"), which has previously been referred to

by the MPS as the "Cyber Investigation Team," based out of the Beijing Municipal Public Security Bureau at a facility in Beijing's Dongcheng District. As explained below, the Group is part of the "Command Group" of a larger "912 Project" that extends beyond just the MPS in Beijing. The MPS's broader 912 Project includes MPS officers from several other provinces in the PRC working in the "Command Group," "Comprehensive Material Group," and "Assessment Group."

a. The Group's Mission

12. As more fully detailed below, the investigation has revealed that the Group has created and used a host of accounts under false names on U.S. social media platforms to disseminate and amplify messages as part of a broad effort to influence and shape public perceptions of the PRC government, the CCP and its leaders in the United States and around the world. The Group uses its misattributed social media accounts to accomplish this mission both by disseminating and amplifying messages that promote what the PRC government and CCP perceive to be favorable attributes of the PRC's CCP-dominated political system, and by seeking to undermine and discredit the systems and policies of perceived adversaries (including the United States government), democracy, and open societies generally. Through the anonymized fake accounts controlled by the Group, the MPS has promoted messages to users in democratic countries suggesting that democracy is less efficient and leads to more inequality than does the PRC's CCP-dominated political system. The anonymized accounts also frequently create and amplify messages with the

purpose of aggravating political and social tensions in democratic countries to undermine the domestic governance of the PRC's perceived foreign adversaries.

13. As part of the investigation, the government has obtained numerous examples of taskings from the Group's leadership to its officers controlling the Group's misattributed social media accounts which illustrate the Group's mission and the means by which the Group carries it out. For example:

- In or about August 2021, the 912 Project received a tasking to "work on the investigation report submitted by the U.S. intelligence agencies on the 24th [of August] to Biden on the origin of COVID" and the letter submitted by the PRC government to the World Health Organization "emphasizing if relevant parties insist in not ruling out the belief of the laboratory leaks, then it is reasonable to conduct investigations at Fort Detrick and the University of North Carolina based on the principles of fairness and impartiality and have in-depth analysis to strengthen the guidance of public opinion." Group-controlled accounts carried out this tasking and parroted its talking points over an extended period of time, with one post made nearly a year later, for example, "call[ing] on the World Health Organization to strictly investigate the virus laboratories in the United States," and claiming in an accompanying video that the U.S. government had not responded to concerns from the international community on the "highly suspicious concerns at Fort Detrick and the University of North Carolina." As detailed below, the Group's execution of this tasking also included harassing specific U.S. persons.

- In or about August 2021, the 912 Project received a tasking to "expose and criticize the United States for wasting their effort to provoke conflicts in the South China Sea in order to drive a wedge between China, Vietnam and Singapore; and to ridicule the United States' retreat from Afghanistan having a major impact on its international reputation. As a responsible country, China has the responsibility to maintain peace, stability and development in the region and the world."

- In or about May 2022, the 912 Project received a tasking to "take advantage of the second anniversary of the [George] 'Floyd's death' incident in the United States to reveal the law enforcement brutality in the U.S., racial discrimination and other social problems." Subsequently, an account controlled by the Group made numerous

posts about George Floyd's death and accusing U.S. law enforcement institutions of racism.

- In or about May 2022, the 912 Project received a tasking to "disclose and criticize the strengthening allied cooperation between the United States and the European Union and pressure put on Russia that has exacerbated the tense Russia-Ukraine conflict." Accounts controlled by the Group subsequently made numerous posts on this topic, one alleging, for example, that protests on the streets of Paris in response to "inflation and high prices" were "the result of the France and Germany cooperating with the US sanctions against Russia" and suggesting that the protesters should protest the United States. Another post argued that the "provocation of the Russia-Ukraine conflict," was part of the United States' "long history of harvesting wealth around the globe by creating conflicts and provoking wars." Other posts by Group accounts amplified public messaging by official Russian government spokespersons suggesting that U.S. intelligence agencies had caused the Nord Stream pipeline explosion.

- In or about July 2022, the 912 Project received a tasking stating, "July 4th, U.S. Independence Day, uncovers its departure from the 'Declaration of Independence,' racial discrimination, pandemic, social division and other issues." Similarly, also in or about July 2022, the 912 Project received a tasking to "work on 2022 US midterm elections and criticize American democracy." Group accounts subsequently continued to spread anti-democratic narratives, targeting both major U.S. political parties, through the 2022 midterm elections. In numerous posts, Group accounts emphasized the divisions and conflict between the two major U.S. political parties, argued that elected leaders are corrupt opportunists that expose the "hypocrisy" of American democracy, and questioned who actually had the interests of the voters at heart.

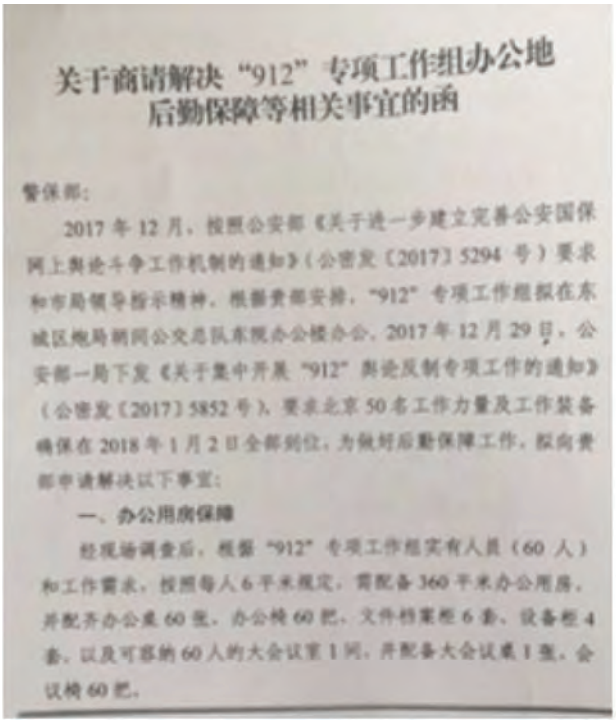
14. Finally, and as discussed in more detail herein, in service of the Group's broader mission to manipulate public perceptions of the PRC, the Group uses its misattributed social media accounts to threaten, harass and intimidate specific victims, located in the United States and elsewhere, that the PRC government and the CCP perceive as critical of the PRC government, the CCP and its leaders, and the policies of the PRC government. Through this campaign of threats, harassment and intimidation, the Group

seeks to undermine the credibility of these critics, promote the PRC government's preferred narratives and messaging, and deter these and other critics from continuing to criticize the PRC government and the CCP.

b. The Group's Composition and Structure

15. The Group is a task force led by and comprised primarily of officers from the MPS's First, Fifth and Eleventh Bureaus. Images 1 and 2 below depict a secret-level two-page MPS document obtained in the investigation that establishes the Group's primary facility in Beijing's Dongcheng District. The First Bureau—colloquially known as the Domestic/National Security Police or "*guo bao*," and more recently as the Political Security Protection Bureau or "*zheng bao*"—is the PRC's secret police, with a mandate that includes the suppression and censorship of political dissent, criticism and other potential threats to the PRC government and CCP. The Fifth Bureau is the MPS's Criminal Investigations Bureau, while the Eleventh Bureau, colloquially known as "*wang an*," is the MPS's Network/Internet Security Bureau.

Image 1



关于商请解决“912”专项工作组办公地后勤保障等相关事宜的函

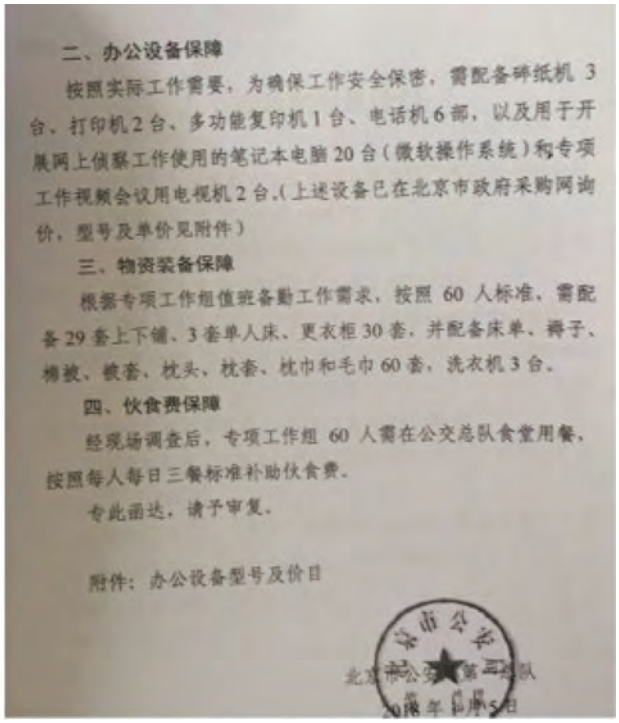
警保部：

2017年12月，按照公安部《关于进一步建立完善公安国保网上舆论斗争工作机制的通知》（公密发〔2017〕5294号）要求和市局领导指示精神，根据贵部安排，“912”专项工作组拟在东城区地坛街道公交总队东院办公楼办公。2017年12月29日，公安部一局下发《关于集中开展“912”舆论反制专项工作的通知》（公密发〔2017〕5852号），要求北京50名工作力量及工作装备确保在2018年1月2日全部到位，为做好后勤保障工作，拟向贵部申请解决以下事宜：

一、办公用房保障

经现场调查后，根据“912”专项工作组实有人员（60人）和工作需求，按照每人6平米规定，需配备360平米办公用房，并配齐办公桌60张、办公椅60把、文件档案柜6套、设备柜4套，以及可容纳60人的大会议室1间，并配备大会议桌1张、会议椅60把。

Image 2



二、办公设备保障

按照实际工作需要，为确保工作安全保密，需配备碎纸机3台、打印机2台、多功能复印机1台、电话机6部，以及用于开展网上侦察工作使用的笔记本电脑20台（微软操作系统）和专项工作视频会议用电视机2台。（上述设备已在北京市政府采购网询价，型号及单价见附件）

三、物资装备保障

根据专项工作组值班备勤工作需求，按照60人标准，需配备29套上下铺、3套单人床、更衣柜30套，并配备床单、褥子、棉被、被套、枕头、枕套、枕巾和毛巾60套，洗衣机3台。

四、伙食费保障

经现场调查后，专项工作组60人需在公交总队食堂用餐，按照每人每日三餐标准补助伙食费。

专此函达，请予审复。

附件：办公设备型号及价目

16. The defendants are officers of the MPS's Beijing Municipal Public Security Bureau, who are—or have been—assigned to the Group. Rosters and duty schedules obtained through the investigation reflect Group membership of approximately 30 to 45 MPS officers at a time in the Beijing Municipal Public Security Bureau; however, as discussed below, the investigation has identified numerous other MPS officers assigned to the broader "912 Project" who are based in branch offices of the MPS located in other major cities in the PRC. Image 3, which has been redacted to obscure the names of uncharged persons and personal identifiable information, depicts a Group telephone roster from approximately June 2019 comprised of 36 MPS officers. A portion of the Group's June

2019 duty schedule is visible above the telephone roster in Image 3 and select examples of duty schedules are referenced below.[3]

17. Some First Bureau officers are assigned indefinitely to the Group as their primary assignments. For example, Image 4, which has been redacted to obscure the face of an uncharged person, depicts a December 2018 photo with several Group leaders assigned indefinitely from the First Bureau, including SONG YANG (I), LI XUAN, LIN YUQIONG, XUE WENFENG, ZHOU GUOQIANG, a Group officer whose identity is known to the government, and YIN YINA, from left to right.

Image 3

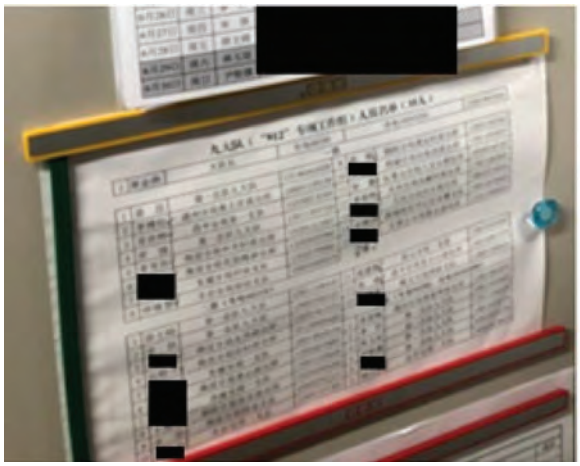


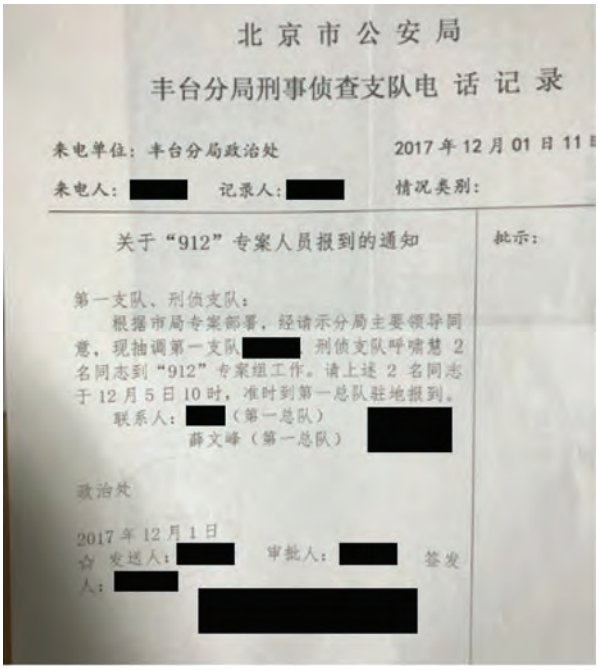
Image 4

18. Other Group officers are seconded from MPS Beijing branches on temporary-duty assignments of varying durations. Image 5 below, which has been redacted to obscure the names of uncharged persons and personal identifiable information, contains a

[3] In addition to their everyday responsibilities, many of the Group officers are scheduled once every few days for "on-call" duty assignments, which appear to include the continual monitoring and targeting of issues that arise online with content disfavored by the PRC government and the CCP.

notice dated on or about December 1, 2017, detailing the assignment of HU XIAOHUI to the Group effective on or about December 5, 2017.

Image 5



北京市公安局

丰台分局刑事侦查支队电话记录

来电单位：丰台分局政治处　　2017年12月01日11

来电人：[redacted]　记录人：[redacted]　情况类别：

关于"912"专案人员报到的通知　　批示：

第一支队、刑侦支队：

根据市局专案部署，经请示分局主要领导同意，现抽调第一支队[redacted]刑侦支队呼啸慧2名同志到"912"专案组工作。请上述2名同志于12月5日10时，准时到第一总队驻地报到。

联系人：[redacted]（第一总队）

薛文峰（第一总队）[redacted]

政治处

2017年12月1日

☆ 发送人：[redacted]　审批人：[redacted]　签发人：[redacted]

[redacted]

19. The seconded officers bring varying skills and experience to the Group. As examples, Images 6 and 7 below, which have been redacted to obscure personal identifiable information, depict the credentials for the primary assignments of two of the Group's officers as Deputy Chief Staff Member of the Office of Prevention and Handling of Cult Issues First Detachment and Zhongguancun Police Station staff, respectively. Images 6 and 7 depict the credentials of the defendants GAO HONGTING and LI XUEYANG respectively.

Image 6

Image 7

20. The Group's operations are led by a captain from the First Bureau. From at least approximately 2016 through December of 2018, ZHOU GUOQIANG was the Group captain. Since approximately December 2018, TAN JINYAN has been the Group captain. Photos of ZHOU GUOQIANG and TAN JINYAN are shown in Images 8 and 9 below on the left and right, respectively.

Image 8

Image 9

21. The document reflected in Images 1 and 2 above includes the Group's request for office space needed to accommodate up to sixty people and a detailed list of necessary equipment, with specific mention of the requirement for laptop computers for "online reconnaissance work" and television sets for special work teleconferences. The

needed equipment extends beyond office equipment and hardware and also includes beds, bedding, towels and wardrobes, which are necessary to meet the requirements for the Group's "on-duty preparation work." These accommodations allow the Group to carry out continuous, around-the-clock coverage to deal with urgent matters that arise online.

22. The Group's work is carried out in the "Duty Room" at the Group's Dongcheng District location by one of approximately five duty teams. Each of the duty teams typically is comprised of approximately four to ten Group officers, with certain sensitive time periods staffed with more officers. The duty teams are scheduled in rotating shifts of on-call duty assignments. The schedule with the Group's on-call duty assignments is typically published to the Group's officers and posted monthly. Each duty shift is led by a duty team leader, who supervises the duty team's operations and directs its activities. The duty team leaders generally include the Group captain and other experienced First Bureau officers indefinitely assigned to the Group

23. As noted above, the Group is part of the Command Group for the MPS's larger 912 Project. Image 10, which has been redacted to obscure the names of uncharged persons and personal identifiable information, depicts a roster of MPS officers from approximately early 2018 serving as points of contact for 912 Project units in approximately 15 different provinces in the PRC. Among the contacts for the Group in Beijing is JU QIANG. Evidence obtained during the investigation indicates that the 912 Project encompasses nearly every province in the PRC, including the four provincial-level municipalities of Beijing, Chongqing, Shanghai and Tianjin, and appears to be comprised of hundreds of MPS officers. Image 11, which has been redacted to obscure the faces of

uncharged persons, depicts a gathering of 912 Project officers, including JU QIANG and several of the MPS officers listed on the roster in Image 10.

Image 10

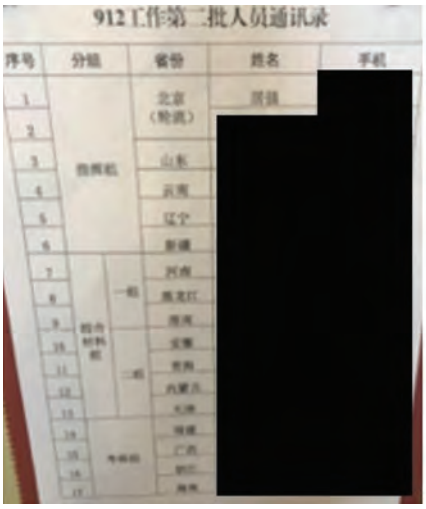


Image 11

II. The Defendants

24. The defendants include members of the Group leadership assigned from the MPS First Bureau, as well as individuals who have engaged in actions described below targeting PRC dissidents through online harassment and threats. As part of these schemes, and in service of the Group's broader objective to shape public perceptions of the PRC government and of the CCP, these defendants also disseminated related PRC propaganda through social media accounts at U.S.-based Internet service providers. All named defendants are charged with Conspiracy to Transmit Interstate or Foreign Threats and Conspiracy to Commit Interstate Harassment.

25. Defendant BAI YUNPENG (白云鹏) is a 31-year-old male and a citizen of the PRC. BAI YUNPENG is an officer in the MPS's First Bureau, badge number 062381, seconded to the Group from the MPS's Yanqing Branch, Sihai Police Station since

in or about 2017. Based on my review of internal Group communications and documents, BAI YUNPENG created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of BAI YUNPENG

26. Defendant CHEN ZHICHEN (陈之琛) is a 26-year-old female and a citizen of the PRC. CHEN ZHICHEN is an officer in the MPS's First Bureau indefinitely assigned to the Group since at least on or about March 2020. Based on my review of internal Group communications and documents, CHEN ZHICHEN has acted in the role of a Group team leader—regularly leading shifts of Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP, and has

corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of CHEN ZHICHEN

27. Defendant GAO CAINAN (高彩楠) is a citizen of the PRC. GAO CAINAN is an MPS officer indefinitely assigned to the Group since at least in or about 2021. Based on my review of internal Group communications and documents, GAO CAINAN has acted in the role of a Group team leader—regularly leading shifts of Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP— and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

28. Defendant GAO HONGTING (高宏亭) is a 35-year-old male and a citizen of the PRC. GAO HONGTING is an officer in the MPS, badge number 035873, seconded to the Group from the MPS's Haidian Branch, Wenquan Police Station, since on or about September 4, 2019. Based on my review of internal Group communications and documents, GAO HONGTING has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and

critics of the CCP and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of GAO HONGTING

29. Defendant HU XIAOHUI (呼啸慧) is a 32-year-old male and a citizen of the PRC. HU XIAOHUI is an officer in the MPS's Fifth Bureau, badge number 041930, seconded to the Group from the MPS's Fengtai Branch, Criminal Investigation Detachment, since on or about December 5, 2017. Based on my review of internal Group communications and documents, HU XIAOHUI has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of HU XIAOHUI

30. Defendant HUANG CHUNHUI (黄春晖) is a 37-year-old male and a citizen of the PRC. HUANG CHUNHUI is an officer in the MPS seconded to the Group

from the MPS's Daxing Branch, Beiwei Village Police Station since in or about 2018. Based on my review of internal Group communications and documents, HUANG CHUNHUI has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

31. Defendant JIN YI (金乙) is a 32-year-old female and a citizen of the PRC. JIN YI is an officer in the MPS seconded to the Group or a related Group function from the MPS's Huairou Branch since in or about 2019. Based on my review of internal Group communications and documents, JIN YI has used social media accounts and engaged in online activity to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of JIN YI

32. Defendant JU QIANG (居强) is a 32-year-old male and a citizen of the PRC. JU QIANG is an officer in the MPS's First Bureau, badge number 064780, indefinitely assigned to the Group since in or about 2016. Based on my review of internal Group communications and documents, JU QIANG has acted in the role of a Group team

leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP— and has corresponded with other defendants about the use of Group-controlled accounts for these purposes. JU QIANG also created and used multiple social media accounts to influence perceptions of issues sensitive to the PRC government and to harass dissidents and critics of the CCP.

Photo of JU QIANG

33. Defendant LI BOLUN (李博伦) is a 42-year-old male and a citizen of the PRC. LI BOLUN is an officer in the MPS seconded to the Group from the MPS's Tongzhou Branch, Jiaowangzhuang Police Station since at least in or about 2017. LI BOLUN has acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP— and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of LI BOLUN

34. Defendant LI XUAN (李轩) is a 31-year-old male and a citizen of the PRC. LI XUAN is an officer in the MPS's First Bureau, badge number 064799, indefinitely assigned to the Group since in or about 2016. Based on my review of internal Group communications and documents, LI XUAN has acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP— and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of LI XUAN

35. Defendant LI XUEYANG (李雪阳) is a 31-year-old male and a citizen of the PRC. LI XUEYANG is an MPS officer, badge number 037821, seconded to the Group from the MPS's Haidian Branch, Zhongguancun Police Station, since in or about

April 2018. Based on my review of internal Group communications and documents, LI XUEYANG has used social media accounts and engaged in online activity to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of LI XUEYANG

36. Defendant LI ZHEFENG (李哲峰) is a citizen of the PRC. LI ZHEFENG is an officer in the MPS's First Bureau seconded to the Group from the MPS's Tongzhou Branch, Zhangjiawan Police Station since in or about 2016. Based on my review of internal Group communications and documents, LI ZHEFENG has acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP— and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

37. Defendant LIANG SHUANG (梁爽) is a 39-year-old male and a citizen of the PRC. LIANG SHUANG is an officer in the MPS seconded to the Group from the MPS's Shunyi Branch since on or about April 12, 2019. Based on my review of internal

Group communications and documents, LIANG SHUANG has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

38. Defendant LIN YUQIONG (林玉琼), also known as Lin Huishan (林慧姗), is a 35-year-old female and a citizen of the PRC. LIN YUQIONG is an officer in the MPS's First Bureau, badge number 064827, indefinitely assigned to the Group since in or around 2016. Based on my review of internal Group communications and documents, LIN YUQIONG has acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP—and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of LIN YUQIONG

39. Defendant LIU ZHAOXI (刘朝夕) is a 35-year-old male and a citizen of the PRC. LIU ZHAOXI is an MPS officer seconded to the Group from the MPS's Haidian Branch, Tiancun Police Station, since on or about September 12, 2017. Based on

my review of internal Group communications and documents, LIU ZHAOXI has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

40. Defendant MIAO SHIHUI (苗世辉) is a 34-year-old male and a citizen of the PRC. MIAO SHIHUI is an officer in the MPS's First Bureau, badge number 050571, seconded to the Group from the MPS's Changping Branch, Detachment One, since on or about September 12, 2017. Based on my review of internal Group communications and documents, MIAO SHIHUI has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes..

Photo of MIAO SHIHUI

41. Defendant SHI LIANGTIAN (史粮田) is a 29-year-old male and a citizen of the PRC. SHI LIANGTIAN is an officer in the MPS seconded to the Group from the MPS's Xicheng Branch Political Center District, Patrol Detachment, since in or about 2017. Based on my review of internal Group communications and documents, SHI LIANGTIAN has created social media accounts, used these accounts to influence

perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of SHI LIANGTIAN

42. Defendant SONG YANG (I) (宋杨) is a 43-year-old male and a citizen of the PRC. SONG YANG (I) is an officer in the MPS's First Bureau, badge number 001548, indefinitely assigned to the Group since in or around 2016. Based on my review of internal Group communications and documents, SONG YANG (I) has acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP— and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of SONG YANG (I)

43. Defendant SONG YANG (II) (宋阳) is citizen of the PRC. SONG YANG (II) is an officer in the MPS seconded to the Group from the MPS's Chaoyang Branch, Criminal Police Detachment since in or about April 2018. Based on my review of internal Group communications and documents, SONG YANG (II) has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

44. Defendant TAN JINYAN (覃金燕) is a 43-year-old female and a citizen of the PRC. TAN JINYAN is an officer in the MPS's First Bureau, badge number 001452, indefinitely assigned to the Group as captain since in or about December 2018. Based on my review of internal Group communications and documents, TAN JINYAN has also acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP—and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of TAN JINYAN

45. Defendant WANG CHUNJIE (王春杰) is a male and a citizen of the PRC. WANG CHUNJIE is an officer in the MPS's First Bureau assigned to the Group since in or about April 2021. Based on my review of internal Group communications and documents, WANG CHUNJIE has acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP—and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

46. Defendant WANG SHIPENG (王士朋) is a 37-year-old male and a citizen of the PRC. WANG SHIPENG is an officer in the MPS indefinitely assigned to the Group since in or about April 2021. Based on my review of internal Group communications and documents, WANG SHIPENG has acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP— and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

47. Defendant WEN JIANXUN (温建勋) is a male and a citizen of the PRC. WEN JIANXUN is an officer in the MPS seconded to the Group from the MPS's Fangshan Branch, Detachment One, since in or about 2019. Based on my review of internal Group communications and documents, WEN JIANXUN has used social media accounts and engaged in online activity to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

48. Defendant XI SHUO (西硕) is a 34-year-old male and a citizen of the PRC. XI SHUO is an officer in the MPS's First Bureau, badge number 032773, seconded to the Group from the MPS's Chaoyang Branch, Olympics Village Police Station, since on or about December 5, 2017. Based on my review of internal Group communications and documents, XI SHUO has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of XI SHUO

49. Defendant XI YUE (袭岳), also known as Qi Dong (齐栋), is a 36-year-old male and a citizen of the PRC. XI YUE is an officer with the MPS's First Bureau,

badge number 001830, indefinitely assigned to the Group since in or around 2016. Based on my review of internal Group communications and documents, XI YUE has acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP— and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of XI YUE

50. Defendant XU YANAN (徐亚楠) is a citizen of the PRC believed to be a 32- or 33-year-old male. XU YANAN is an MPS officer, badge number 043165, seconded to the Group from the MPS's Fengtai District, Network Security Detachment, since in or about May 2018. Based on my review of internal Group communications and documents, XU YANAN has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of XU YANAN

51. Defendant XU ZHEN (徐震) is a 29-year-old male and a citizen of the PRC. XU ZHEN is an MPS officer seconded to the Group from the MPS's Shijingshan Branch, Babaoshan Police Station, since on or about December 5, 2017. Based on my review of internal Group communications and documents, XU ZHEN has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of XU ZHEN

52. Defendant XUE WENFENG (薛文峰), also known as Feng Xu (徐丰), is a 41-year-old male and a citizen of the PRC. XUE WENFENG is an officer in the MPS's First Bureau, badge number 001603, indefinitely assigned to the Group since in or about 2016. Based on my review of internal Group communications and documents, XUE WENFENG has acted in the role of a Group team leader—regularly leading shifts of several

Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP— and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of XUE WENFENG

53. Defendant YANG DALIN (杨大林) is a 34-year-old male and a citizen of the PRC. YANG DALIN is an officer in the MPS seconded to the Group from the MPS's Changping Branch, Detachment One, since on or about December 5, 2017. Based on my review of internal Group communications and documents, YANG DALIN has acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP—and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

54. Defendant YANG MIAO (杨淼) is a citizen of the PRC believed to be a 30- or 31-year-old male. YANG MIAO is an officer in the MPS's First Bureau seconded to the Group from the MPS's Shijingshan Branch since in or about 2019. Based on my review of internal Group communications and documents, YANG MIAO has created social

media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

55. Defendant YIN YINA (尹贻娜) is a 33-year-old female and a citizen of the PRC. YIN YINA is an officer with the MPS's First Bureau, badge number 064819, indefinitely assigned to the Group since in or about 2016. Based on my review of internal Group communications and documents, YIN YINA has acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP—and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of YIN YINA

56. Defendant YU MIAO (余苗) is a citizen of the PRC and believed to be a 38- or 39-year-old male. YU MIAO is an officer in the MPS seconded to the Group from the MPS's Haidian Branch, Network Security Detachment, since in or about 2018. Based on my review of internal Group communications and documents, YU MIAO has used social media accounts and engaged in online activity to influence perceptions on issues sensitive to

the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

57. Defendant ZHANG DI (张迪) is a citizen of the PRC. ZHANG DI is an officer in the MPS seconded to the Group from the MPS's Changping Branch, Dongxiaokou Police Station, since in or about 2018. Based on my review of internal Group communications and documents, ZHANG DI has created social media accounts, used these accounts to influence perceptions on issues sensitive to the PRC government and to harass dissidents and critics of the CCP, and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

58. Defendant ZHOU GUOQIANG (周国强) is a 52-year-old male and a citizen of the PRC. ZHOU GUOQIANG is an officer in the MPS's First Bureau, badge number 001749, assigned to the Group as captain from in or about at least 2015 through approximately December 2018. Based on my review of internal Group communications and documents, ZHOU GUOQIANG has also acted in the role of a Group team leader—regularly leading shifts of several Group officers who posted, monitored and updated content on various social media platforms to influence perceptions on issues sensitive to the PRC government and to target dissidents and critics of the CCP—and has corresponded with other defendants about the use of Group-controlled accounts for these purposes.

Photo of ZHOU GUOQIANG

III. Summary of the Means and Methods Used to Carry Out the Criminal Scheme

59. As discussed above, a primary purpose of the Group is to manipulate and influence public perceptions of the PRC government, the CCP and its leaders, and to undermine and discredit the systems and policies of perceived adversaries, including the United States government, democracy, and open societies generally. To carry out this mission, the Group conducts online perception management campaigns that promote the propaganda and approved narratives of the PRC government and the CCP on various social media platforms, while attempting to intimidate and silence their critics by discrediting their speech or overwhelming it with counternarratives.

60. Members of the Group engage in various forms of transnational repression on behalf of the PRC government and the CCP. Specifically, the Group works to extend the reach of the PRC government's authoritarian policies and practices beyond its national borders by silencing, harassing and threatening dissidents and activists living abroad in the United States and other countries. As detailed below, the Group has specifically targeted individuals located in the United States for exercising their First Amendment-protected rights to express their views on matters that challenge the narratives approved by the PRC government and the CCP. The Group has, for example, caused an Internet service

provider headquartered in the United States to terminate meetings and accounts associated with critics of the PRC government, including meetings and accounts of U.S.-based users.

61. Internal documents and communications among Group members demonstrate that the Group's own officers perceive their work as an effort to defeat the PRC's adversaries. Image 12 depicts a meme circulated internally by several Group officers characterizing the Group's work as a way of fighting for the PRC government.

Image 12

62. Often in conjunction with their efforts to perpetrate the online harassment campaign, the defendants and other Group members use U.S.-based social media accounts to disseminate propaganda and narratives that mirror and amplify the PRC government's and the CCP's approved public messaging. This content—often featuring claims that appear to sow discord and distort facts about issues and persons in the United States and elsewhere—is meant to appear as if generated organically by users unaffiliated

with the PRC government and the CCP, many of whom are purportedly located in the United States.

63. The social media accounts controlled by the Group often purport to belong to authentic individual users, and unlike the official social media accounts of PRC government agencies and officials, conceal from social media services and U.S. users that their content is posted on behalf of the PRC government. As described herein, some of these social media accounts are created to give the appearance that they are controlled by U.S.-based users, and, in certain instances, communicate directly with U.S. users about subjects of interest to the PRC government and the CCP. This practice gives users of the social media platforms the false impression that multiple U.S. persons unaffiliated with the PRC government agree with narratives generated by the PRC government about a variety of topics, and disagree with the publicly held views of PRC dissidents on issues such as the COVID-19 pandemic, the advantages of democracy over autocracy, U.S. domestic and foreign policy, human rights issues in Hong Kong and Xinjiang Province, Taiwan, and the Russian invasion of Ukraine. By hiding the PRC-government affiliation of the Group's accounts from other users, social media platforms and the U.S. government, Group members seek to influence and manipulate online discourse, including discourse in the United States, toward positions favored by the PRC government and the CCP.

64. Additionally, Group members and others affiliated with the Group have attempted to recruit U.S. persons to act as unwitting agents of the PRC by disseminating PRC propaganda or narratives. As a further indication of the coordinated nature of the Group's work in furtherance of the CCP's interests, Group members coordinate with officials

in the United Front Work Department of the Central Committee of the CCP (the "UFWD").[4] In a June 20, 2020, chat between XI YUE and TAN JINYAN, XI YUE lamented having to work recently with so many people from the UFWD. Based on the timing of this communication, I assess this coordination likely included topics related to the COVID-19 pandemic, the U.S. government's response to developments in Hong Kong, civil unrest in the United States following the death of George Floyd, and the 2020 presidential election.

65. Internal records and communications of the Group reflect that it has developed and uses various practices and procedures for targeting individuals, including those residing in the United States, and for propagating PRC official statements through misattributed accounts.

66. New Group members are provided a checklist of items that includes "Daily management and archives for *guo bao*'s [the First Bureau's] key person(s)" and "Account of sites for religious practices or cult activities."[5] The checklist serves as a starting point for new Group members to familiarize themselves with these norms, practices, and procedures. Image 13, which has been redacted to obscure the faces of uncharged

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[4] According to an August 2018 report published by the U.S.-China Economic and Security Review Commission, the UFWD coordinates the "United Front" strategy to "co-opt and neutralize sources of potential opposition to the policies and authority" of the CCP. The report further states the UFWD accomplishes this using a range of methods, including "influenc[ing] overseas Chinese communities, foreign governments, and other actors to take actions or adopt positions supportive of Beijing's preferred policies . . . United Front work serves to promote Beijing's preferred global narrative, pressure individuals living in free and open societies to self-censor and avoid discussing issues unfavorable to the CCP, and harass or undermine groups critical of Beijing's policies."

[5] Citations to electronic communications include original spellings, punctuation, and grammar. All translations of Chinese language into English are in draft form and are subject to revision.

persons, depicts (from left to right) Group team leaders SONG YANG (I) and XUE WENFENG facing toward the right of the photograph leading a session with other Group members who are facing toward the left of the photograph, including (from left to right) in the first row defendants JU QIANG, YIN YINA and LIN YUQIONG, in the middle row defendant XU ZHEN, and in the back row defendants BAI YUNPENG and MIAO SHIHUI.

Image 13

67. New Group members also receive policy guides and instructional documents, including operational best practices and metrics for evaluating performance. One policy guide contains step-by-step instructions for establishing and maintaining multiple social media accounts on a specific platform. The instructions contain techniques and tactics for the registration of multiple accounts using temporary email addresses. After the accounts are registered, Group members are directed to change the profile icons and download translation tools to their browsers, find articles from approved websites, translate the content, post the translated content on the social media accounts, conduct daily checks for replies to the posts, and interact with the users replying to their posts to avoid the appearance of "flooding" the site. The instructions caution against reposting other users' posts and

indicate other practices that are prohibited and that could result in "points" being deducted from their evaluations or their accounts being blocked.

68. Other instructions advise the "linking" or use of common email addresses for accounts created on different social media platforms. These instructions contain tips and video tutorials on tools to help increase the number of followers for each of the accounts, for example the "Mass Follow" plug-in for Twitter accounts. Still other instructions provide 912 Project officers with assistance on websites they can visit to find "real, ordinary" persons to use in newly registered account profiles.

69. In accordance with these directives, and using the means and methods outlined below, Group members have created and maintained thousands of social media and other online accounts that, to the public, appear to be used by unique users located around the world, including in the United States.[6] 912 Project officers are instructed to have a minimum number of accounts on various social media platforms, including U.S.-based platforms like Twitter, Facebook and YouTube. Communications uncovered during the investigation indicate officers often created several accounts on Facebook and Twitter for use in the scheme. Indeed, to demonstrate that the positions of the PRC government enjoy a broad degree of support across nations, races, ethnicities and genders, the purported users of the social media accounts are based on selected traits and demographics, such as a woman based in Hong Kong, a woman based in Russia, or a person of Hispanic ethnicity based in

[6] For the purposes of this Affidavit, I assess Group social media accounts to include accounts for which subscriber information reflects creation by known Group members, as well as accounts repeatedly discussed in internal Group communications, affiliated with the Group's operational activity, and linked to the Group by forensic evidence.

the United States. For example, on or about August 31, 2020, one of the Group's Google accounts ran Internet searches for frequently used characters in female names in Hong Kong. Similarly, on or about September 6, 2020, BAI YUNPENG created a Facebook account with the Cyrillic username "Фая Сорокина." This practice of creating numerous fake accounts with purportedly diverse subscribers helps Group members to avoid detection by the social media platform moderators that seek to ensure that active accounts are linked to authentic users, and the pseudonymous accounts provide the PRC government with a veneer of deniability for the Group's efforts to harass and threaten dissidents and critics abroad.

70. Group members have created numerous social media accounts based in the United States and designed to appear as though U.S. persons or groups control them. For example, on or about January 7, 2020, GAO HONGTING created a Facebook account with the username "Bill Giao." The homepage for this Facebook account falsely indicates Bill Giao resides in Palo Alto, California. Other examples include Facebook accounts created by Group members on or about November 4, 2017, for "Bethany Pena" and "Leslie Sherman" purportedly residing in Los Angeles, California and New York, New York respectively. On or about December 8, 2017, Group members registered an account with the username "Susan Miller," who also purportedly lives in New York and studied at New York University. Image 14 depicts a screenshot of Susan Miller's profile page. Until approximately on or about September 15, 2021, the profile photo for the Susan Miller Facebook account consisted of a purported selfie photograph as seen in Image 15.

Image 14

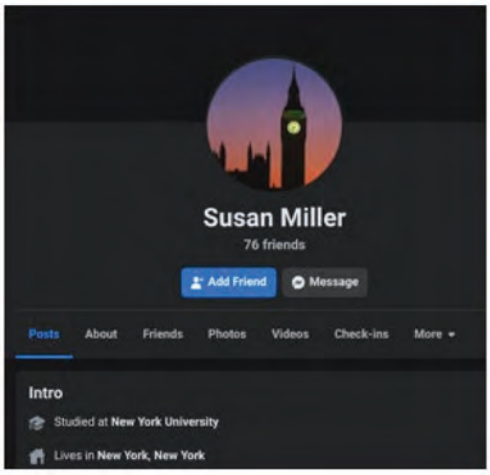
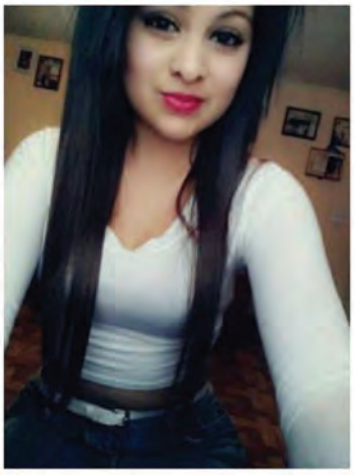


Image 15



71. Some of the Group's Facebook accounts ostensibly belong to users living in locations outside of large coastal metropolitan areas in the United States, in an apparent attempt to show widespread support for the PRC government and the CCP across U.S. socioeconomic and locational demographics. As examples, on or about August 13, 2016, Group members created a Facebook account for "Julie Torres" of Madison, Wisconsin; on or about August 16, 2016, Group members created a Facebook account for "Stacey Altman" of Sparks, Nevada. Images 16 and 17 depict screenshots of Julie Torres's profile page and Stacey Altman's profile page, respectively.

Image 16

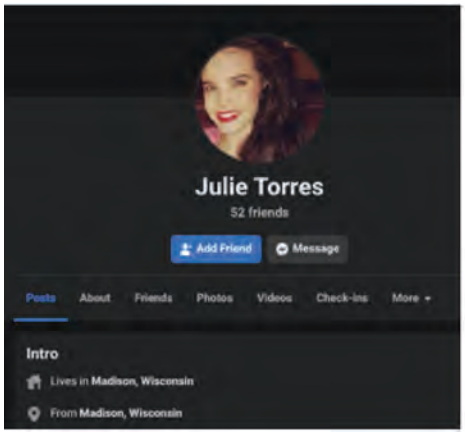
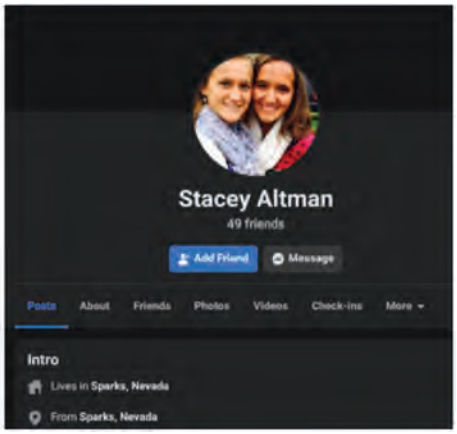


Image 17



72. Additionally, Group members create some social media accounts that do not reflect purported locations of residence but display names common among ethnic groups primarily residing in Western countries to suggest that the users are based in the United States or other Western countries. On or about July 20, 2020, GAO HONGTING created a Twitter account with the display name "Cristina Jones." Other examples include Group Facebook accounts with usernames "Lacey Sutton," "Sage Huffman," "Charlotte Gray," and "Victoria Rojas," and Twitter accounts I assess based on forensic evidence are affiliated with the Group's operational activities with display names including "Ben K," "Christy Saxton," "Kershaw Anderson," and "Vivian Cheng." As illustrations of the Group accounts' public-facing appearance, Image 18 depicts a screenshot of the current profile page of Facebook user "Lacey Sutton," and Image 19 depicts the profile of Twitter user "Ben K" and the handle @abeycorp.

Image 18

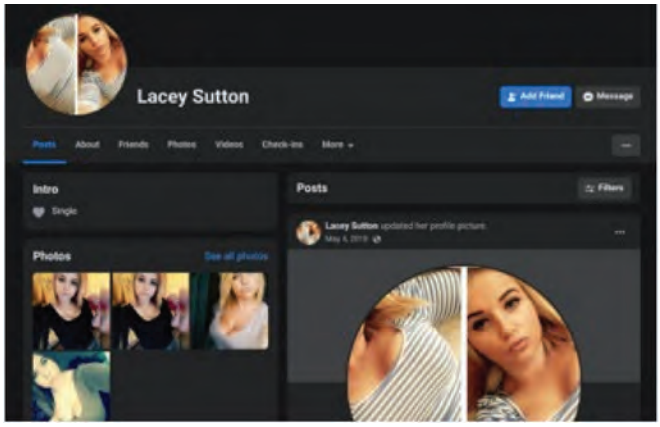


Image 19

73. Group members seek to enhance the bona fides of the purported U.S.-based user accounts by having the accounts join Western religious groups, such as the Facebook groups "Jesus Is the Light Of The World," "Bible Daily," "I love GOD & Jesus our Saviour. Join," and "Honest Quotes." Other accounts have joined Facebook groups dedicated to pop culture and/or more mundane topics, such as "Movies FAN" or "Cramps."

74. After creating myriad social media accounts, including accounts of purported U.S. persons, the Group uses certain accounts to post content consistent with CCP narratives that is then quickly amplified through other Group accounts. The themes of Group postings are dictated by taskings based on events of concern to MPS's headquarters and the PRC government, including the Ministry of Foreign Affairs ("MFA").[7] The taskings, accessed by Group members on an encrypted network and encrypted file transfer

[7] In addition to taskings specific to the Group, officers also receive taskings as part of broader MPS initiatives, including the 415 Mechanism, which tasks officers with investigating and attempting to suppress those spreading "rumors" online about top CCP leaders and PRC government officials. As shown in Image 27 below, some officers appear to be assigned to work broader MPS initiatives like the 415 Mechanism from within the Group.

systems in what the Group calls its "confidential room," direct the composition of articles and videos based on certain themes highlighted in the taskings.

75. The Group also receives taskings directly from MPS headquarters that are communicated internally and bypass the use of the encrypted networks in the confidential room. For example, on or about February 3, 2020, LI BOLUN sent a directive in Chinese to other Group officers in a Group message channel that stated, "@everyone According to the Headquarters' tasking requirement, starting from today, every member of 912 shall write an original article (content: can be related to the pandemic, related to hk [Hong Kong], related to [U.S.-based critic of the CCP, described in greater detail below as Victim-1], all would do), and submit it by 16:00 of that day.[8] In addition, XU ZHEN [and] YANG MIAO are both responsible for submitting three videos every day, [and] are exempt from articles~~

8 [redacted]

hereby notified!!"[9] YANG MIAO subsequently ran searches on how to make YouTube videos automatically generate subtitles and translate them into simplified Chinese. Notably, a similar directive had gone to 912 Project officers in or about December 2018, as officers were directed to post three videos or posts daily with YouTube and Facebook accounts, with one of the posts required to be "anti-[Victim-1]."

76. Once content-generating posts are made through the Group accounts, Group and 912 Project officers circulate internal notifications of the postings to alert others of the need to support, like, retweet and share the content through other Group accounts. Group members also utilize chat features within the social media services to initiate and send messages about posted content between the Group-controlled accounts. For example, on or about January 16, 2021, JU QIANG sent notice in an internal Group chat that a "fb" link had been sent and requested other Group officers carry out their work to amplify the message. JU QIANG's reference to a "fb" link pertains to a post on one of the Facebook accounts he controls.

77. At times, Group members send notifications of newly posted content in large Group chats of Group-controlled accounts; at other times, the Group-controlled accounts send direct chat messages to other Group-controlled accounts pertaining to the new activity. For example, on or about September 24, 2020, the "Ben K" Twitter account sent a

[9] The Group message channel included, among others, CHEN ZHICHEN, GAO HONGTING, HU XIAOHUI, HUANG CHUNHUI, JU QIANG, LI BOLUN, LI XUAN, LI XUEYANG, LIANG SHUANG, LIN YUQIONG, LIU ZHAOXI, MIAO SHIHUI, SONG YANG (I), TAN JINYAN, WEN JIANXUN, XI SHUO, XI YUE, XU ZHEN, XUE WENFENG, YANG DALIN, YANG MIAO, YIN YINA and ZHANG DI.

message to another of GAO HONGTING's Twitter accounts (with the username "godlike998") containing a link to a recent post and instructions to "support."

78. Group members also use certain Twitter accounts with profiles falsely indicating that the user is based in the United States to engage in direct communications with U.S. persons and other foreign nationals. In these instances, the Group accounts purport to belong to users from places such as New York; Atlanta, Georgia; or Naples, Florida. For example, in communications to U.S. persons from a Group-affiliated Twitter account created on or about September 17, 2020, with the username "JamesmarkDavid1" and the display name "James mark David," the purported account user claimed in messages that "I [sic] work with the us military," "I AM A SOLDER [sic]," and "I AM PLANING [sic] TO COME TO THAILAND WHEN I FISHED [sic] MY MISSION HERE IN SOMALIA." The account primarily retweets content posted by the U.S. Department of Defense and senior officials, including Secretary of Defense Lloyd Austin. As detailed below, the account has been used to disseminate content suggesting that a U.S.-based user affiliated with the U.S. military is supportive of the PRC government and its policies.

79. Group members also use social media accounts to contact individuals assessed to be sympathetic and supportive of the PRC government's narratives, including individuals based in the United States. Group members ask these assessed sympathizers to use their social media accounts to disseminate Group content. For example, in direct messages with U.S. persons, the purported user of the James mark David Twitter account introduced himself as "James," "Mark," "David," and "David Mark," and claimed to be living in Atlanta or in New York. At one point, when the James mark David Twitter

account communicated with an actual user from Georgia, the user of the James mark David Twitter account claimed to be living in Toronto, but to be originally from Germany.

80. The Group provides its members with access to numerous desktop computers, laptop computers, tablets, mobile phones and other electronic devices to carry out official operations. Images 20 and 21 are photographs of some of the Group's approximately 50 Apple computers and approximately 50 iPhones, respectively.

Image 20

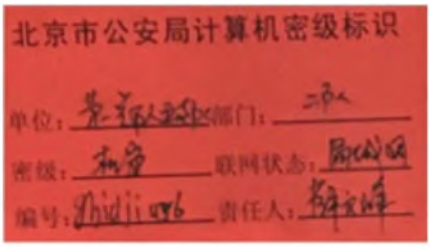
Image 21

81. The Group's devices are labelled with assignment stickers and "banners" that indicate Unclassified-level use, Secret-level use, or Top Secret-level use. The banners stipulate the types of information the Group officers may access on such devices to prevent classified information from spilling into the public domain. For example, a Group laptop computer assigned to ZHANG DI bears a green Beijing Municipal Public Security Bureau computer classification marking to denote security and network statuses of "Unclassified" and "Internet," respectively, as in Image 22. Devices intended for use on the open Internet are often labeled with green banners with the warning that "Internet computers are strictly prohibited from storing, processing, and transmitting classified and internal information." Another Group computer assigned to XUE WENFENG bears a red Beijing

Municipal Public Security Bureau computer classification marking to denote security and network statuses of "Secret" and "Local Network," respectively, as in Image 23.

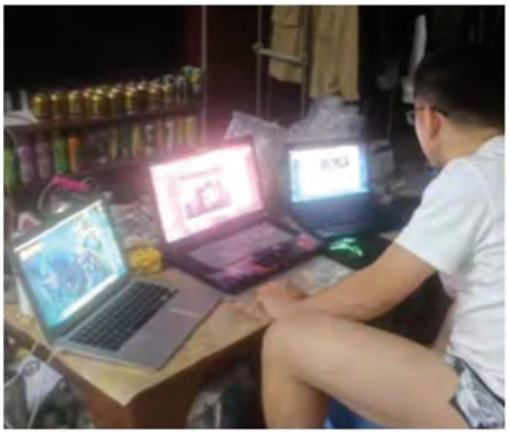
Image 22

Image 23



82. Group members use multiple electronic devices concurrently to increase the perception that their social media or online accounts are being accessed by unique and distinct users, thereby minimizing the possibility of being blocked by the social media platforms' moderators. Image 24 is a photograph of GAO HONGTING simultaneously using three laptop computers.

Image 24



83. Group members also use multiple static Internet Protocol ("IP") addresses accessed through virtual private networks that are intended to make it more difficult to attribute control of the Group's online accounts, and thus responsibility for its activities, to the Group. These static IP addresses make it easier to access social media and online accounts from a range of computing systems and mobile devices to conduct activity that appears to be from U.S.-based and other IP addresses located outside of the PRC. This activity includes, but is not limited to, registering new social media accounts, accessing and maintaining existing social media accounts, and engaging in direct communications with U.S. persons. Image 25 is a modified image of a QR code sent to Group officers to access one of the Group's static IP addresses, used by both GAO HONGTING and XI SHUO.

Image 25

84. Subscriber information associated with Group social media accounts is documented and logged on spreadsheets. These spreadsheets include information such as email addresses and passwords, the dates of birth of the purported subscribers, IP addresses and/or geographic "zones" associated with the accounts—several of which depict U.S.-based IP addresses and geographic zones, including New York—and the types of Internet browser used. Image 26 is a modified image of an internal Group spreadsheet listing some of the Group Facebook accounts; the spreadsheet also contains tabs for some of the Group Twitter and YouTube accounts.

Image 26

85. The Group tracks the performance of seconded officers on fulfilling their assigned responsibilities. Seconded officers are awarded points based on, among other things, daily promotions on accounts with Twitter, Facebook, YouTube, Hong Kong Discuss Forum and other sites, and "account maintenance" on Twitter, Facebook and YouTube. "Account maintenance" is an apparent reference to attempts to "normalize" Group accounts with content unrelated to Group taskings and topics that would not otherwise attract attention from the social media sites based on terms-of-service and use agreements. Image 27, which has been redacted to obscure the names of uncharged persons, depicts a "work point table" dated July 16, 2019, maintained by LI BOLUN to track the monthly point totals accumulated by several Group members including XI SHUO. As alluded to above, Image 27 indicates some of the seconded officers—including LIANG SHUANG and LIU ZHAOXI—are evaluated based on their assignment from within the Group to work on the 415 Mechanism, a broader MPS initiative targeting online activity critical of senior CCP and PRC government officials, particularly General Secretary Xi Jinping. Image 27 also shows that in July 2019,

some of the Group's officers were rated highly for their activity on the Group's Twitter and YouTube accounts, others were rated highly for their activity on other Group social media accounts, while others were evaluated favorably on content related to videos. Internal Group communications reflect frequent discussions on how to cultivate and maintain social media accounts and minimize associated costs as Twitter, Facebook, and other platforms adjusted their terms-of-use policies.

Image 27

工作积分表（2019年7月26日）

序号	人员	每日打卡情况（工作日22次）	日常推广（次）						原创		工作情况积分								其他加分		扣分说明		本月积分（考核得分）
			推特账号	优兔账号	脸谱账号	重点任务：DISCUSS版广	重点任务：UNANT S版广	重点任务：海外推广	基本分		普通账号养护（按组发）	精品账号养护（至少6个）			原创		线索报告情况	重点任务：境外网站发文					
									文章	视频、图人任	推特	推特	脸谱	优兔	文章	视频			分数	原因	分数	原因	
1	黄世辉	18	13	7				2															40
2	[redacted]	18	15	7				2															42
3	西锐	18	11	12				1															42
4	呼南慧	16	2	1			1	3						7									30
5	基建助	17					2							12									31
6	徐果	18								17													35
7	[redacted]	16				2															-1	修改错误	17
8	张旭	11							5														16
9	[redacted]	14				5															-1	修改错误	18
10	[redacted]	14				1															-1	修改错误	14
11	杨磊	11																					11
			415																				
12	[redacted]	18																					18
13	安洪	15																					15
14	[redacted]	18																					18
15	刘聪少	15													5								20
16	[redacted]	7																					7
			停电																				
17	杨大林	18																					18

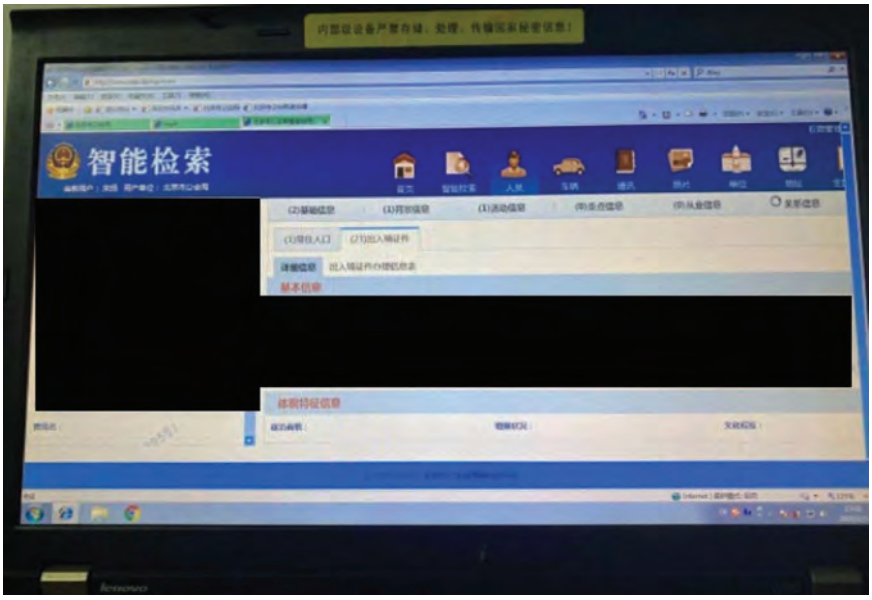
IV. The Scheme to Harass Dissidents in the United States and Elsewhere

86. Group members have engaged in a scheme to harass, intimidate and discredit PRC dissidents and critics of the PRC government located throughout the world, including in the United States. To identify the targets for this harassment scheme, Group members have scrutinized individuals who post online content critical of the PRC government or inconsistent with official PRC narratives.

87. As part of this scheme, Group members use social media accounts, some of which ostensibly belong to individuals in the United States, to harass PRC dissidents and critics of the PRC government by posting threatening or delegitimizing content regarding such persons. Group members also take affirmative action to have online meetings and accounts associated with PRC critics or dissidents removed from U.S. social media platforms.

88. In addition to their campaign of online harassment, Group members identify online users to other PRC law enforcement agents, who can then visit known associates and family members of the PRC dissidents or critics and attempt to dissuade further critical postings through intimidation. As part of their efforts to identify victims for the harassment scheme, Group members obtain the personal identification information of PRC dissidents or critics, such as their addresses and phone numbers through queries of PRC law enforcement databases. Image 28 depicts one such query in an MPS database by a Group member (with redactions to remove a target's identifying information) on or about February 1, 2020.

Image 28



A. Harassment of and Threats Against Victim-1 and His/Her Supporters

89. A primary focus of the Group's harassment scheme is a critic of the CCP who fled the PRC and presently resides in New York City ("Victim-1"). Since at least 2017, Group members have sought to harass Victim-1 through, among other means, anonymized social media accounts operated by the Group and by pressuring U.S. social media companies to remove Victim-1 and U.S.-based associates of Victim-1 from social media platforms. These efforts are part of the PRC government's broader effort to prevent, disrupt and harass Victim-1's use of social media and other online platforms to disseminate and discuss disfavored content. As alluded to above with the February 3, 2020 message sent by LI BOLUN in a Group message channel, Group officers have a standing tasking requirement from MPS headquarters to post content targeting Victim-1. Additional evidence uncovered during the investigation of the broader 912 Project indicates that a standing task requirement to target Victim-1 has existed since on or about December 2018 with officers

instructed to continue to familiarize themselves with background information on the case and related persons and to follow updated overseas content on social media that was both in support of and against Victim-1.

90. Since Victim-1 fled the PRC, the PRC government has sought his/her return for prosecution in the PRC and has employed numerous methods to effect Victim-1's capture or arrest. In May 2017, the PRC government sent several undeclared agents from the PRC's Ministry of State Security ("MSS") to the United States to cause Victim-1's coerced repatriation to the PRC as part of the "Fox Hunt" initiative. However, the U.S. government disrupted the PRC government's efforts to forcefully repatriate Victim-1, and Victim-1 continues to reside in the United States.

91. Correspondence and photographs uncovered in the investigation depict members working from the Group's Dongcheng District operational location to monitor and disrupt Victim-1's online and social media activity. For example, Images 29 and 30, redacted to protect Victim-1's identity, depict a Group duty team comprised of HU XIAOHUI, LIU ZHAOXI, MIAO SHIHUI, YANG DALIN and YU MIAO, and led by XI YUE, on or about November 20, 2018, while viewing content pertaining to Victim-1. The Group's monitoring and disruption of Victim-1's social media and online activity occurred daily, including on weekends and holidays (for example, on February 4, 2019, the eve of Chinese New Year, while a Group team led by XUE WENFENG and including SHI LIANGTIAN and WEN JIANXUN was on duty).

Image 29

Image 30

92. The Group has also used social media accounts to identify potential supporters of Victim-1 and online activity related to Victim-1. For example, Group members, including XI SHUO and SHI LIANGTIAN, routinely monitor and engage Victim-1 and his/her supporters on Twitter using accounts not associated with the PRC government. Image 31, redacted to protect Victim-1's identity, depicts a screenshot taken by SHI LIANGTIAN of Twitter activity of a U.S.-based account with content speaking favorably of Victim-1.

Image 31

93. The Group uses social media accounts to target Victim-1 and Victim-1's supporters in a variety of ways.

94. For example, five Facebook accounts created by BAI YUNPENG, none of which identified their affiliation with the PRC government, targeted Victim-1 from at least July 2018 through June 2019. On or about January 24, 2018, BAI YUNPENG created a Facebook account with the username "Andy Ouyang" from a Group IP address. Using the same IP address, BAI YUNPENG created four additional Facebook accounts purporting to belong to "哈利波特大丘吉尔梆硬," "灰化肥会挥发," "Qe二连," and "喵小喵".[10]

95. During a shift on or about September 11, 2018 led by ZHOU GUOQIANG and with a Group duty team comprised of, among others, BAI YUNPENG, HU

[10] The usernames translate approximately as "Harry Potter and the Great Churchill bang hard," "the ash fertilizer will evaporate," "Qe second company," and "meow little meow."

XIAOHUI, HUANG CHUNHUI, LI BOLUN, YIN YINA and YU MIAO, the Group used the Andy Ouyang Facebook account to share a video titled in Chinese "Big hemorrhoid [Victim-1]," in a play on the Chinese character for wisdom. BAI YUNPENG shared this video from the Chinese-language YouTube channel "Rumor Shredder: Have love for truths, not rumors. This is a rumor shredder, all rumors will be terminated. [Victim-1] dedicated column." The Group used the Andy Ouyang Facebook account to share other videos from the same YouTube channel targeting Victim-1.

96. The Group also used BAI YUNPENG's Facebook accounts for status updates, which frequently contain content attacking Victim-1, including 120 unique status updates pertaining to Victim-1. Those status updates include:

- On or about December 14, 2018, during a duty shift led by LI ZHEFENG that included XU ZHEN: a post in Chinese about one of Victim-1's goals being to discredit the PRC for sensationalism and his/her usual routine of using others to commit crimes and using another person's death to harm more victims.

- On or about January 3, 2019: a post in Chinese about a court decision in the PRC against Victim-1 while threatening that the end of Victim-1 is approaching;

- On or about April 12, 2019: comments in Chinese on some of Victim-1's past appearances on U.S.-based news networks where Victim-1's "tricks" were "exposed" and claiming that Victim-1 "may end up with a tragic ending;"

- On or about May 15, 2019, during a duty shift led by LIN YUQIONG that included XU ZHEN: a post in Chinese about an impoverished Victim-1 kneeling to flatter the U.S. emperor.

- On or about May 28, 2019: a post in Chinese accusing Victim-1 of hiring "democracy activists" to make a fuss and using a U.S. political figure to campaign for Victim-1's political asylum in the United States; and

- On or about June 5, 2019: a post labeling Victim-1 a fugitive who unscrupulously challenges U.S. laws on the Internet and accusing anyone giving Victim-1 money and public support as conspiring with Victim-1.

97. As another example, on or about August 26, 2021, at approximately 2:26:42 AM UTC [Coordinated Universal Time], while a Group team led by CHEN ZHICHEN and including WANG SHIPENG was on duty, a Group Facebook account created on or about May 23, 2018, with the username "Marlon Pindos" uploaded a video about Victim-1 with the caption in Chinese "Full of lies."[11] Following the post, several of the Group Facebook accounts commented on the video that same day:

- At approximately 2:40:50 AM UTC, one of the Charlotte Gray Facebook accounts commented in Chinese, "Sober up."
- At approximately 2:42:52 AM UTC, the Julie Torres account commented in Chinese, "Do not be fooled again."
- At approximately 2:44:22 AM UTC, the Stacey Altman account commented in Chinese, "Live in a fantasy."
- At approximately 2:45:41 AM UTC, the Leslie Sherman account commented in Chinese, "Everything depends on one mouth."
- At approximately 2:47:36 AM UTC, the Bethany Pena account commented in Chinese, "Do not let the lies from [Victim-1] bewitch you again."

98. On or about September 15, 2021, at approximately 4:03:41 AM UTC, while a Group team led by WANG SHIPENG, and that included LI XUAN, was on duty, the Marlon Pindos Facebook account uploaded a video about Victim-1 with the caption in

[11] The user of the "Marlon Pindos" Facebook account is purportedly based in the Philippines.

Chinese "brags and cheats every day." Following the post, several of the Group Facebook accounts commented on the video that same day:

- At approximately 4:22:52 AM UTC, the Lacey Sutton account commented in Chinese, "[He/She] is really disgusting."

- At approximately 4:24:26 AM UTC, one of the Charlotte Gray Facebook accounts commented in English, "Yes, [he/she] is a real liar."

- At approximately 4:25:47 AM UTC, the Julie Torres account commented in English, "Why isn't [he/she] in jail? What is the government doing?"

  At approximately 4:30:28 AM UTC, the Stacey Altman account commented in English, "[He/She] go."

- At approximately 4:32:37 AM UTC, the Leslie Sherman account commented in English, "[He/She] is a consummate swindler."

Moreover, the Group used the same device and IP address (which resolves to a Texas-based Internet-service provider ("ISP")) to upload the Victim-1 video with the Marlon Pindos account and to post comments through the Lacey Sutton, Charlotte Gray, Julie Torres, Stacey Altman, and Leslie Sherman accounts.

99. Indeed, 912 Project officers had received a tasking directing officers to call on U.S. law enforcement to take prompt action against Victim-1. The Group used the Facebook accounts of multiple purported U.S.-based users to post comments about Marlon Pindos's video about Victim-1, most of which were in English. The Julie Torres account, purportedly based in Madison, Wisconsin, commented "what is the government doing" in a statement directed at the U.S. government. Moreover, the initial part of Julie Torres's comment asking, "why isn't [he/she] in jail," questioned why the U.S. authorities had not arrested Victim-1.

100. On or about September 22, 2021, at approximately 2:06:53 UTC, while a Group team lead by JU QIANG and including GAO CAINAN and YIN YINA was on duty, the Marlon Pindos Facebook account uploaded a video about Victim-1 with a caption in Chinese stating that Victim-1's "scams were exposed." Following the post, several of the Group's Facebook accounts made the following comments in English on the video that same day:

- At approximately 2:31:22 AM UTC and 2:31:45 AM UTC, the Lacey Sutton account commented, "[He/She] is very hateful" and "[He's/She's] running out of tricks" respectively.
- At approximately 2:32:54 AM UTC, one of the Charlotte Gray Facebook accounts commented, "What's new about [his/her] con."
- At approximately 2:33:54 AM UTC, the Julie Torres account commented, "[He's/She's] really nasty."
- At approximately 2:35:16 AM UTC, the Stacey Altman account commented, "Pity the people [he/she] cheated."
- At approximately 2:36:01 AM UTC, the Leslie Sherman account commented, "You're a big liar," referring to Victim-1.

Moreover, the Group used the same device and the same IP address (which resolves to a Texas-based ISP) to upload the Victim-1 video through the Marlon Pindos account and post responsive comments through the Lacey Sutton, Charlotte Gray, Julie Torres, Stacey Altman, and Leslie Sherman accounts.

101. On or about September 30, 2021, at approximately 2:21:17 AM UTC, while a Group team lead by JU QIANG and including GAO CAINAN and YIN YINA was on duty, the Group used the Susan Miller Facebook account, with a purported residence in New York, to upload a photo of Victim-1 with the caption in Chinese stating, "in order to get

money by cheating as quickly as possible," along with a comment in Chinese stating, "deceiving by changing tricks." Several other Group accounts of purported U.S.-based users then commented on Susan Miller's photo and about Victim-1 that same day:

- At approximately 2:50:52 AM UTC, the Bethany Pena account commented in Chinese, "cheat for money through various tricks."

  At approximately 2:51:49 AM UTC, the Leslie Sherman account commented in Chinese, "the end of trickster [Victim-1]."

- At approximately 2:52:27 AM UTC, the Stacey Altman account commented in Chinese, "old [Victim-1] will lose everything for sure."

- At approximately 2:53:10 AM UTC, one of the Charlotte Gray Facebook accounts commented in Chinese, "[Victim-1 supporters] wake up."

- At approximately 2:54:28 AM UTC, the Julie Torres account commented in Chinese, "deceive and cheat every day."

102. The Group again posted the comments through the Leslie Sherman, Stacey Altman, Charlotte Gray, Julie Torres, and Lacey Sutton accounts from the same IP address. The Group uploaded the video through the Susan Miller account from this same IP address and commented with the Bethany Pena account from two similar IP addresses. Notably, all three IP addresses resolve to the same Texas-based ISP.

103. Group social media accounts have also been used to attempt to undermine perceptions of Victim-1's reliability. In April and May 2021, Group Facebook accounts repeatedly posted images related to Victim-1 suggesting that Victim-1 was a fugitive from justice. While using the same IP address as the original Facebook posting, other Group Facebook accounts, including those for users "Hiopd Ashf," "Victoria Rojas," "Pippa Allen" and "Наталья Прудникова," searched for the original posts, and then liked

and commented on the attacks on Victim-1. Among the comments were characterizations of Victim-1 as a "big liar." Group duty schedules in April and May 2021 indicate that the Group teams on duty during these attacks were led by GAO CAINAN, JU QIANG, LI XUAN, SONG YANG (I), TAN JINYAN, WANG CHUNJIE, WANG SHIPENG, YANG DALIN and YIN YINA.

104. The Group utilized a Facebook account created on or about April 28, 2018, by SONG YANG (II) with the display name "Mo Zhang" to attack Victim-1's credibility with at least nine posts in Chinese in November and December 2018. One post, made by the Group on or about December 4, 2018, during a duty shift led by LI ZHEFENG, uses language similar to that from the posts made by the Group using BAI YUNPENG's Facebook account on or about December 14, 2018, during another duty shift led by LI ZHEFENG described above in paragraph 96. The Mo Zhang Facebook posts often tagged Victim-1 and referred to him/her as a "big liar."

105. The Group utilized multiple accounts on Twitter for similar purposes, including through Twitter accounts created by XU YANAN, HUANG CHUNHUI and ZHANG DI. For example, the Group used a Twitter account created on or about January 9, 2018, by HUANG CHUNHUI with the username "chaos12311" and the display name "Chaos" to "like" a number of other Tweets attempting to discredit Victim-1. One such Tweet in Chinese stated, "I would like to ask all netizens not to be exploited by the media controlled by rumors, gossip, and the rapist, plague ghost [Victim-1]! Plague ghost [Victim-1] is the biggest 'national thief' on the Internet. Spreading rhetoric on the Internet every day, using netizens to satisfy [his/her] own desires, plague ghost [Victim-1]'s crimes are too numerous to mention."

106. Similarly, Group members used YouTube accounts to post content attacking Victim-1 or to identify persons potentially sympathetic to Victim-1's public statements about the PRC. In March 2018, the Group used a Google account created by LIU ZHAOXI to search for several videos by or about Victim-1 and "dislike" them. For example, during a shift on or about March 20, 2018 led by ZHOU GUOQIANG and with a Group duty team including BAI YUNPENG, LI ZHEFENG, LIU ZHAOXI, YIN YINA and ZHANG DI, the Group used a Google account created by LIU ZHAOXI to watch and "dislike" a video from Victim-1 titled in Chinese "How [Victim-1] sees Wang Qishan serving as vice-chairman, will [Victim-1]'s seven points change or not! Will Himalayas' goal of having rule of law in China still be achieved? [Victim-1]."

107. On or about April 23, 2018, SONG YANG (I) searched YouTube for Victim-1's name and the phrase "fake documents." On or about June 6, 2020, both LI XUAN and LIU ZHAOXI searched for a specific video posted on or about June 4, 2020, by Victim-1 and a U.S.-based associate of Victim-1. On or about June 7, 2020, YANG MIAO ran searches on YouTube for Victim-1's media company and watched a video on recent activity involving Victim-1 and some of Victim-1's U.S.-based supporters. On or about October 26, 2020, May 11, 2021, June 24, 2021, and October 24, 2021, LIANG SHUANG ran searches on YouTube for Victim-1's name.

108. On or about April 24, 2018, JU QIANG, while using a U.S.-based email account and using the pseudonym "Amanda J," posted on YouTube a video in Chinese with Chinese and English subtitles titled "Case Briefing on the Forgery of Official Government Documents by [Victim-1], [Victim-1 Associate] and [Victim-1 Associate]". The video claims that Victim-1 had unveiled a "secret Chinese government document" with

content related to the dispatch of PRC "police officers" and the MSS to the United States on "Field Duty." The video further claims that Victim-1's document was verified by U.S. "government agencies." The video purports to depict Victim-1 revealing a "top secret Chinese government document" issued by the "National Security Commission" of the CCP. Whenever Victim-1 discusses or shows a classified PRC government document in the video, a separate caption appears stating that the document is forged.

B. Disrupting Videoconferences of U.S.-Based Dissidents

109. As part of the scheme to harass dissidents, Group members have disrupted efforts by PRC dissidents, including dissidents residing in the United States, to assemble via videoconference and discuss democratic reform in the PRC, among other issues. Since at least in or about 2020, Group members have disrupted meetings by PRC dissidents on a videoconferencing platform hosted by a U.S. Internet services provider headquartered in San Jose, California ("Company-1").

110. PRC dissidents selected the Company-1 platform because of its accessibility from the PRC, where the dissidents seek to amplify their pro-democracy message. PRC dissidents sometimes used their own social media accounts to publicly advertise and share the meeting details regarding events on Company-1's platform. Other times, PRC dissidents used private communications to organize the meetings.

111. In both cases, Group members successfully infiltrated and disrupted the events, either by drowning out the speech of the participants with profane and threatening rhetoric or working directly with a co-conspirator employed by Company-1 to cause termination of the meetings because of purported violations of Company-1's terms of service ("TOS"). These approaches helped implement the PRC government's policy of immediate

remediation of any conduct deemed illegal by the PRC government, regardless of whether the users were based in the PRC or outside the PRC (and sometimes in the United States).

a. The May 31, 2020, Commemoration of the 1989 Tiananmen Square Massacre

112. As indicated above, on or about January 7, 2020, and while a Group team led by LI XUAN and that included GAO HONGTING, LIU ZHAOXI and WEN JIANXUN, was on duty, GAO HONGTING created U.S.-based accounts on Facebook and Twitter with the username "Bill Giao" with purported residence in Palo Alto, California. Soon thereafter, the "Bill Giao" Facebook account began to follow the Facebook account of one of the student leaders of the 1989 Tiananmen Square protests based in the Washington, D.C., area ("Victim-2"). Similarly, the Bill Giao Twitter account began to monitor and receive updates on one of Victim-2's U.S.-based associates.

113. Victim-2 planned to participate in a videoconference on May 31, 2020, commemorating the Tiananmen Square massacre (the "May 31 Meeting") that was hosted by another former student leader of the 1989 Tiananmen Square protests and who has been an outspoken advocate for human rights and the advance of democracy in the PRC ("Victim-3"). Victim-3, who is based in the United States, used the Company-1 account of a U.S.-based associate ("Victim-4") to host the meeting. The May 31 Meeting was hosted while both Victim-3 and Victim-4 were in the United States. Notably, Victim-3 has long been a target monitored by the Group. For example, on or about August 6, 2018, JU QIANG used one of the Group Facebook accounts to run searches on Victim-3's name.

114. In the meantime, PRC authorities pressured several potential meeting speakers in the PRC not to attend the May 31 Meeting on the Company-1 platform. On the morning of May 31, 2020, PRC police officers arrived at the residence in the PRC of a

potential speaker and prevented him/her from using any electronics (and thereby attending the May 31 Meeting). The PRC government similarly pressured another participant who had provided Victim-3 with a pre-recorded video to be played during the May 31 Meeting on the Company-1 platform; this potential speaker was detained by PRC authorities two hours before the May 31 Meeting was scheduled to begin and was held in custody until after June 4, 2020. The potential speaker was released with the warning that he/she would be incarcerated if the video that he/she had provided to Victim-3 was seen by more than 500 viewers.

115. PRC authorities similarly targeted potential speakers for the May 31 Meeting located outside the PRC. For example, one PRC-born speaker who was residing in the United States ("Victim-5") was invited to speak about his/her position that the PRC government had lied to the Chinese people about the Tiananmen Square massacre in denying that it had taken place. However, after initially accepting an invitation to speak at the May 31 Meeting, Victim-5 ceased communicating with Victim-3 until after May 31, 2020. In fact, Victim-5, who was also subject to a campaign of harassment and intimidation by U.S.-based PRC nationals who appear to be operating at the direction of the PRC government, elected to avoid activist initiatives to protect his/her family who remain in the PRC.

116. Further, in an interview with the FBI, Victim-5 indicated that he/she had several calls in late May 2020 with his/her parents, who were horrified after officers with the MPS's First Bureau had visited his/her parents in the PRC and threatened to impose a travel ban on them. Victim-5's father told Victim-5 that he/she would have already been arrested if Victim-5 were in the PRC. Moreover, Victim-5's father told him/her that officers with the MPS's First Bureau were monitoring Victim-5's social media accounts.

Victim-5's spouse in the PRC was also summoned to a meeting with his/her supervisor to discuss Victim-5, reflecting an indication that the spouse's future employment could be jeopardized by Victim-5's actions.

117. On the day of the May 31 Meeting, from approximately 8:47:23 a.m. through approximately 8:53:32 a.m. Eastern Daylight Time, a Google account created by LI XUAN conducted four searches on YouTube for Victim-3's name in Chinese. On the same date from approximately 4:47:30 a.m. through 5:00:30 a.m. Eastern Daylight Time, the Google account created by LI XUAN attempted to watch a YouTube video titled "#六四 31 週年网上纪念会 [Victim-3's organization] [Victim-3's name in Chinese] [Victim-3's name in English]" (which translates to "#June 4 31st anniversary online memorial") fourteen times.

118. Shortly thereafter, at approximately 9:05:16 a.m. Eastern Daylight Time, a Group device assigned to LI XUAN downloaded the Company-1 app. Other Group devices also downloaded the Company-1 app shortly before the May 31 Meeting. The FBI's review of Group duty schedules in this time period indicates that at the time of the meeting, LI XUAN led a Group duty team of three Group officers: GAO HONGTING, LIU ZHAOXI and WEN JIANXUN.

119. During the May 31 Meeting several participants, described by organizers of the meeting as "troublemakers," joined the Company-1 videoconference to disrupt the event by harassing and intimidating the speakers and the pro-democracy attendees. Some of these "troublemakers" were, in fact, members of the Group. Among the disruptive participants were attendees with usernames such as "aaa," "a123," "勿忘8964" ("Don't forget 8964," an apparent reference to June 4, 1989—the date of the Tiananmen

Square massacre), as well as "[June 4 Dissident name]希走狗必死" and "民运人士原地阵亡" ("[June 4 Dissident name] running dog must die" and "pro-democracy activists to be killed in action on the spot," respectively). "Running dog" is a pejorative term used to refer to someone who is a traitor and is sycophantic, unprincipled, and always after his/her own interests, and/or who works for evil.

120. The "troublemakers" disrupted the meeting through Company-1's chatroom feature, which allows participants in Company-1 video meetings to exchange chat messages. In these chat messages, the "troublemakers" cursed and scolded pro-democracy participants and praised the massacre of the protesters by the CCP. For example, user "勿忘8964" commented, "Death to the mothers of all the families of the pro-democracy people! Don't you have some ideas of how many soldiers you had killed, how many guns you had grabbed, and how many tanks you had burned in Tiananmen at the time?" The user "aaa" added, "After June 4th, the overseas democratic movement has set up a number of organizations, carried out numerous donations. What have you accomplished? How much money have you taken? You have done nothing. All of you are abroad and enjoying the bread made of human blood shed from the June 4th event!!! Fake democracy movement, fake! Fake! Fake!!" Similarly, the user "a123" stated, "Finally someone is telling the truth. Everybody is enjoying the bread made of human blood shed from the June 4th event. It's a little disingenuous." The user "a123" continued, "The United States follows democracy, but why blame China. I can't understand you guys. It's just empty talks."

121. The harassment persisted throughout the event, with the "troublemakers" targeting some of the invited speakers. During the presentation of another

speaker ("Victim-6"), the user "a123" commented, "What does a little teenager know? Don't join in to goof around." As Victim-6 presented in English rather than Chinese, the user "a123" commented, "Speak human, speak Chinese, I don't understand." Further, during a third speaker's ("Victim-7's") presentation, the user "a123" commented, "Fake westerners are the most annoying one[s]."

122. Toward the end of the May 31 Meeting, the user "aaa" made another comment in the chatroom suggesting that the meeting was staged, writing "It must be hard to get 200 actors. How many U.S. dollars can they help you get? You are eating the bread made of human blood while being complacent. You are a group of indecent, cowardly, face-distorted, disgusting people."

123. The usernames associated with the "troublemakers" in the May 31 Meeting joined the meeting from Group static IP addresses using at least four separate Group devices. As indicated above, the FBI's review of Group duty schedules in this time period indicates that at the time of the meeting, LI XUAN led a Group duty team of three Group officers: GAO HONGTING, LIU ZHAOXI and WEN JIANXUN. For example, the user "aaa" joined the May 31 Meeting using a Group laptop known to be used by LI XUAN using the Group IP address from Image 25 above; the user "a123" joined the meeting using a Group laptop used by GAO HONGTING from one of the Group's U.S.-based IP addresses. Images 32 and 33 depict modified screenshots of LI XUAN and GAO HONGTING accessing this specific U.S.-based IP address.

Image 32 **Image 33**

124. Victim-3 informed the FBI that the comments (which, as detailed above, were made by Group members) in the May 31 Meeting were very disruptive and that they appeared designed to threaten, disrupt and intimidate. Victim-3 noted that the comments had a chilling effect for the audience to know that persons—likely from the PRC government—were watching them and that courage was necessary for participants to join these events in the first place. Victim-3 further informed the FBI that comments in the Company-1 chatroom were all in line with past activities to disrupt his/her events. From the perspective of Victim-3, the comments were "textbook" examples of how the PRC government and its intelligence services operated.

125. The Group's targeting of the participants and speakers in the May 31 Meeting continued after the event. Internal Company-1 chats suggest that the MPS's First Bureau and the MSS sought records and information about the May 31 Meeting from Xinjiang Jin, also known as "Julien Jin," then a security engineer for Company-1 in

Hangzhou, PRC.[12] Julien Jin, together with other Company-1 employees in the United States, collected Victim-4's Company-1 account information, including the account holder name, the user ID, account ID, account number and meeting history. Another U.S.-based employee of Company-1 terminated Victim-4's account and provided Julien Jin with confirmation of the termination; this communication included Victim-4's true name and email account. Company-1 employees in the United States also sent Julien Jin multiple documents containing the names, associated email accounts and IP addresses used by all participants in the May 31 Meeting, including users who joined from IP addresses in the United States. The investigation has not confirmed whether Julien Jin ultimately relayed this information to the MPS or the MSS, which had initially sought it from Julien Jin. Notably, however, GAO HONGTING appears to be among the MPS officers for whom Julien Jin had stored contact information.

126. Similarly, following the May 31 Meeting, officers with the MPS's First Bureau visited the home of Victim-4's family in Sichuan Province in the PRC and placed Victim-4's father under house arrest. These officers told Victim-4's father that Victim-4 had engaged in activities that had upset the PRC government—that is, the May 31 Meeting and comments Victim-4 had posted on his/her Twitter account about the release of a political prisoner in the PRC—and indicated that Victim-4 should return to the PRC. Victim-4's father told Victim-4 that officers with the MPS's First Bureau were monitoring Victim-4's social media activity. Indeed, the investigation has obtained intelligence reporting on

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[12] Julien Jin's actions to target U.S.-based dissidents are detailed in a criminal complaint filed under Eastern District of New York Docket Number 20-MJ-1103. Julien Jin remains at large.

Victim-4's activities that was produced and disseminated by 912 Project MPS officers located in Sichuan Province.

127. PRC agents also targeted the family of Victim-7 the day after the meeting. During the May 31 Meeting, Victim-7 spoke about a call Victim-7 had received in or about April 2020 from his/her father in the PRC. During the call, an MPS officer who was with Victim-7's father stated, in sum and substance, that Victim-7 should cease all anti-CCP activities, provide the officer with the passwords to Victim-7's social media accounts, and return to the PRC. On or about June 1, 2020—the day after the May 31 Meeting—Victim-7's parents received an electronic message from the MPS, which contained a screenshot showing Victim-7 in the May 31 Meeting on Company-1's platform. I assess that Group members captured this screenshot while infiltrating the meeting to disrupt it. Victim-7's father then sent an electronic message asking whether Victim-7 wanted his/her parents "dead." Victim-7 was extremely distressed by the pressure exerted by PRC officials on Victim-7 and Victim-7's family, particularly after the May 31 Meeting.

128. In sum, the participants in the May 31 Meeting have expressed the sentiment that the actions of the "troublemakers" in the meeting, coupled with the coordinated actions of MPS and MSS officers targeting participants' family members, caused severe stress and underscored the ability of the PRC government to undermine the participants' physical safety in the United States.

129. The Group's targeting of commemorations of the Tiananmen Square massacre continued into 2021. On or about June 3, 2021, HU XIAOHUI used one of his Facebook accounts to run searches on Facebook for Victim-2's Facebook page and for the name of Victim-3's organization. On or about June 3, 2021, HU XIAOHUI searched

Facebook for "六四," or "6 4," and a reference to the date of the Tiananmen Square massacre. On or about June 4, 2021, HU XIAOHUI used the same Facebook account to search Facebook for "六四" and for "8964," another reference to the date of the Tiananmen Square massacre. HU XIAOHUI also ran searches on Facebook in conjunction with memorial services scheduled at Catholic churches in Hong Kong commemorating the Tiananmen Square massacre. Based on these searches, I assess that HU XIAOHUI was searching for activity on Facebook related to Victim-2, Victim-3, and others attempting to commemorate the Tiananmen Square massacre.

b. The January 21, 2021, Anti-Communism Conference

130. On or about January 21, 2021, Victim-2 and a prominent Chinese dissident who participated in the 1989 Tiananmen Square student protests who now resides in the Eastern District of New York ("Victim-8") attempted to organize and host a global Internet conference on anti-communism on Company-1's platform (the "January 21 Meeting"). Pro-democracy activists from the United States, Taiwan and Europe, who included numerous student leaders of the 1989 protests, were scheduled to speak at the conference. Coordinators intended to highlight human rights issues in the PRC, to warn Americans about the CCP's infiltration in the United States, and to raise these issues as President Joseph Biden's Administration came into office.

131. Organizers of the conference used Facebook, Twitter and YouTube accounts to post details about the conference, describing the event as an "anti-communism" event. Other organizers similarly posted about the upcoming conference on Twitter, Facebook and YouTube. Though the conference was intended to be open to the public,

Victim-2's posts on Twitter and Facebook directed those interested in participating in the conference to register for the January 21 Meeting by January 20, 2021, by emailing Victim-2 and Victim-8's associate ("Victim-9"), who is based in the Washington, D.C. area.

132. Victim-9 sent out approximately 300 invitations for the conference, including the meeting details needed to join the event on Company-1's platform. To avoid disruption by PRC government actors, Victim-9 did not send out invitations to all persons who expressed interest in registration. Prior to the conference, Victim-9 purchased an account with Company-1 that would accommodate up to 500 participants. As an additional security measure, Victim-8 and Victim-9 authorized the host of the meeting room on the Company-1 platform to mute all participants except those invited to speak.

133. Group members were involved in efforts to disrupt the January 21 Meeting. On or about January 20, 2021, LI XUAN updated the Company-1 app on at least one of his devices with the latest version of Company-1's software. The FBI's review of Group duty schedules in this time period indicates that at the time of the meeting, LI XUAN led a Group duty team of Group officers LIU ZHAOXI and XU ZHEN.

134. On the morning of January 21, 2021, Victim-9 opened the Company-1 meeting room for the January 21 Meeting and added Victim-8 as a co-host. Before the meeting started, Victim-8 began to screen participants in the waiting room of the meeting for individuals potentially interested in disrupting the conference. However, as the conference was about to begin, Victim-8 decided to admit entry to all participants in the waiting room.

135. As the conference began, the organizers lost control of the conference after Victim-8, the meeting host, was ejected from the meeting room. A participant who remained in the Company-1 meeting room for the January 21 Meeting, observed that loud

music began playing and that some of the participants began shouting vulgarities and calling the organizers pejorative terms, including "fraudsters" and "con artists." Additionally, some participants used the Company-1 chat feature to type comments accusing the organizers of being fraudsters and con artists and threatening participants in the conference that they should "drop dead" and "go to hell."

136. Although Victim-9 provided invitations with meeting details to only 300 persons, the number of participants in the Company-1 meeting reached the 500-person threshold, even as hundreds of other participants remained in the January 21 Meeting waiting room. The Company-1 meeting room was unable to accommodate the number of participants attempting to enter the conference, and the event effectively crashed.

137. Organizers and hosts of the conference sought multiple times to re-start the January 21 Meeting on Company-1's platform, at times using the Company-1 accounts of different organizers and pro-democracy activists. Another New York-based dissident originally from the PRC ("Victim-10") tried to restart the January 21 Meeting by hosting the event on his/her account. These efforts were disrupted by, among other things, spontaneously shown video clips of pornography, cursing and loud music during the meeting. Some participants also posted comments in the chat feature of Victim-10's meeting room calling the organizers "running dogs," among other insults.

138. In addition to the disruptions and harassment in the meeting and chatroom on Company-1's platform itself, Victim-10 also received several threatening messages to his/her cell phone, calling Victim-10 a "traitor" or "collaborator," and threatening that Victim-10 would "die miserably." Victim-10 received additional messages

in the days thereafter, that Victim-10 noted were attempts to discredit and smear the reputation of Victim-2.

139. After multiple unsuccessful attempts to restart the January 21 Meeting, meeting organizers held a smaller event on Company-1's platform, sending the Company-1 meeting details for this smaller event to only the invited speakers and other known pro-democracy sympathizers.

140. One of the participants in the disrupted the event after Victim-8 received the host-control function was the user "王十一" ("Wang Shiyi"). The user "王十一" joined the January 21 Meeting from the Group IP address from Image 25 above—one of the Group IP addresses used to disrupt the May 31 Meeting by the user "aaa" who used a laptop used by LI XUAN.

141. Similarly, a participant joined one iteration of the January 21 Meeting on Company-1 with the username "aaa" from what appears to be an unmasked IP address – or a public IP address not hidden by a Virtual Private Network or other privacy tool – resolving to China Telecom, one of the PRC's state-owned telecommunications companies. As noted above, the username "aaa" was also used to disrupt the May 31 Meeting from a Group laptop used by LI XUAN.

142. The participants in the January 21 Meeting shared with the FBI their feeling of being persecuted even in the United States by the PRC government, as well as a feeling of helplessness in their inability to use the service of a U.S. Internet service provider without fear of retribution from the MPS and MSS. They noted that the disrupters and PRC agents who intimidated their family members appeared to act in a coordinated manner.

C. Threats and Harassment Against Victim-11

143. The Group has also conducted a campaign of harassment and threats against dissidents as part of the Group's broader effort to promote counternarratives pertaining to the scrutiny of human rights issues in Hong Kong, Xinjiang Province, and Taiwan – issues that the CCP has characterized as "internal," and, therefore, not of concern to other countries, including the United States. Recent events in Hong Kong—including the protests in 2019, the implementation of the National Security Law in 2020, the persecution and arrests of pro-democracy activists, the closure of independent Hong Kong-based media outlets, anti-democratic measures instituted in local elections, and the responses of the U.S. government and other governments to these developments—have been identified as priorities in taskings to the Group.

144. Group taskings have specifically directed members to focus their efforts on disseminating MFA propaganda regarding democracy in Hong Kong. For example, one of the taskings from September 26, 2021, instructs that, "in coordination with voice of support from all walks of life, conduct in-depth research and strengthen the guidance of public opinion regarding the list from the Ministry of Foreign Affairs on the evil deeds of the U.S. intervention in Hong Kong."

145. Another tasking from October 27, 2021, instructs Group members to "strengthen positive publicity and suppress negative public opinion on hot media topics including public groups going to the U.S. Consulate General in Hong Kong and Macau to protest against the U.S. government's harboring of fugitives and undermining the rule of law in Hong Kong and urge the U.S. government to stop interfering in Hong Kong affairs."

146. The taskings further direct members to "increase positive propaganda" and "suppress negative discussions." The Group has used its social media accounts—including those associated with purportedly U.S. persons, and none of which identify their affiliation with the PRC government to either U.S. social media companies or their customers—to carry out these taskings.[13]

147. Consistent with these taskings, the Group began tracking and monitoring social media activity related to leaders of the 2019 Hong Kong protests, including one prominent advocate ("Victim-11") who has recently resided in the United States and regularly travels through the United States. For example, GAO HONGTING created a Facebook account on or about April 6, 2020, with the username "番茄吴" ("Tomato Wu"), that was subsequently used to search for Facebook activity related to Victim-11. GAO HONGTING created the Tomato Wu account during a shift led by LI XUAN and with a duty team comprised of himself, LIU ZHAOXI and WEN JIANXUN.

148. On or about April 9, 2021, and while leading a Group duty team with YANG DALIN, JU QIANG used one of his Group Facebook accounts to post a status update in Chinese stating, "some are alive, [he/she] [Victim-11] is already dead!" JU QIANG's status update includes a caricature of Victim-11 holding a Molotov cocktail and a suitcase with a caption suggesting that Victim-11 had escaped Hong Kong for the United States in

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[13] In addition to disseminating PRC propaganda regarding Hong Kong, the Group has targeted journalists from Hong Kong and Taiwan. For example, on or about April 2, 2020, in an internal chat that included ZHOU GUOQIANG, XI YUE, LIN YUQIONG and LI XUEYANG, among others, the participants agreed to execute unspecified "countermeasures" against reporters from Hong Kong and Taiwan.

June 2020 prior to the Hong Kong National Security Law going into effect and was still trying to trick people. Other Group Facebook accounts commented on JU QIANG's post, including several accounts of purportedly U.S.-based Facebook users. Some of the comments to JU QIANG's post from that same day are as follows:

- At approximately 1:20:08 PM UTC, a Group-controlled account with the username "Mila Wiesner," an account used by JIN YI, commented in Chinese, "some are alive, [he/she] is already dead."
- At approximately 1:31:58 PM UTC, the Julie Torres account commented in Chinese, "repent and be saved."
- At approximately 1:41:12 PM UTC, a Group-controlled account with the username "Alice Rich" commented in Chinese, "law is merciless."
- At approximately 1:43:47 PM UTC, the Lacey Sutton account commented in Chinese, "repent and be saved."
- At approximately 1:50:15 PM UTC, the Stacey Altman account commented in Chinese, "go Hong Kong."
- At approximately 1:52:16 PM UTC, the Bethany Pena account commented in Chinese, "no criminal would go unpunished."

149. On or about October 13, 2021, HU XIAOHUI used one of his Facebook accounts to run searches on Facebook for Victim-11's name in English and Chinese.

150. During an interview with the FBI, Victim-11 indicated he/she had been the subject of frequent online and physical harassment, including suffering physical assault on the streets of Hong Kong and in the Hong Kong International Airport. Victim-11 had not experienced similar physical attacks in the United States but was distressed as the online rhetoric escalated after his/her arrival in the United States. The volume of online comments targeting Victim-11, numbering in the thousands, suggested to Victim-11 the involvement of

the PRC government. The online targeting included comments in English such as, "If I see you, I will cut you into pieces," and "I'm gonna find you and fuck you like a pig!" Other comments publicized Victim-11's actual physical location, a harassment tactic known as "doxing," which I know from training and experience is a tool of transnational repression. Victim-11 further explained that the PRC government was trying to fit him/her into a false narrative, specifically that Victim-11 is a U.S. agent trained and paid for by the U.S. government.

D. Harassment of Victim-12 and Victim-13, and Narratives on COVID-19

151. As part of the harassment scheme, the Group has used its social media accounts to disseminate disinformation and PRC government propaganda regarding the COVID-19 pandemic. The propaganda is generally intended to accomplish one of three things: to shift attention away from Wuhan, PRC, where the coronavirus is believed to have first infected humans; to criticize U.S. government policy designed to combat COVID-19; or to question the safety of COVID-19 vaccines invented in the U.S. and Europe. In connection with this scheme, the Group has not only helped spread COVID-19 disinformation authored by the MFA through social media accounts that appear to belong to authentic users—including users based in the United States—but also has used similar accounts to target and harass two individuals residing in the United States, including one U.S. citizen.

152. On or about March 19, 2020, Group leader XI YUE wrote to LI XUEYANG and LIN YUQIONG, among others, stating that "Assistant Minister Chen"—apparently referring to a high-ranking member of the MFA—instructed that it is a "good time to fight back" and that it is "necessary to expose the United States, the United Kingdom, and

other countries' utter disregard for human life and their extreme hypocrisy of protecting human rights"—in "stark contrast" with the PRC's "clear institutional advantages!" In his message, XI YUE continued that it is "necessary to mobilize the establishment camp, the media, social organizations, legal circles, and others to use a collective voice to comment, to take initiatives, to seize the commanding heights of public opinion, to score points for ourselves, and win public opinion, and to campaign for elections!"

153. That same day, LI XUEYANG, LIN YUQIONG and XI YUE, among others, wrote to each other in chats about how to spread disinformation about the supposed origins of COVID-19 on Group Twitter and Facebook accounts. Among the proposals was the statement in Chinese that "The truth came out," alleging that COVID-19 was linked to the U.S. "Biological Weapons Research Base" at Fort Detrick, Maryland and that U.S. athletes participating in the Wuhan Military Games, who stayed near the Huanan seafood market in Wuhan, PRC, might have introduced COVID-19 into Wuhan to "frame" the PRC. The proposed post further stated that the FBI must approve the testing of all COVID-19 patients or else the testing was "illegal," the FBI only approves testing those patients returning from the PRC (and not those without any contact to the PRC), and the purpose of the FBI "controlling" the testing is to "cover up" the U.S. source of COVID-19 and to implement the "secret strategy of framing China for the U.S. source" of the novel coronavirus. The proposed post ended with a reference to a WHO official stating that "the world should thank" the PRC. Notably, the substance of this March 19, 2020, internal message was posted verbatim in multiple Group Twitter and Facebook accounts.

154. As the development and domestic approval of COVID-19 vaccines looked increasingly likely in late 2020—aided by the U.S. government's Operation Warp

Speed—the Group adjusted messaging to target the safety and efficacy of vaccines. The Group tweets promoted efforts to "get rid of the virus" by encouraging city-wide lockdowns akin to the measures imposed on cities in the PRC after confirmed COVID-19 cases.

155. On or about December 1, 2021, the Group used the "ppcaCAMjyt5fXwV" Twitter account, an account created on or about September 10, 2021, by XU YANAN with the display name "公孙阿里", to tweet in Chinese, "For those who have been used as chess pieces, repent early." The tweet tagged a Chinese virologist who fled from the PRC to the United States in 2020 ("Victim-12") and subsequently alleged that COVID-19 was made in government laboratory in the PRC—seemingly implying that the virologist is an asset of the U.S. government.

156. On or about January 20, 2022, the ppcaCAMjyt5fXwV Twitter account posted a series of tweets about the origins of COVID-19. Among the ppcaCAMjyt5fXwV tweets are posts stating, "#COVID19 Why has the previous FBI investigation been inconclusive? Because they could not tell others that the COVID-19 actually originated in their own homes" and "#COVID19 Jack kept saying that the COVID-19 came from Fort Detrick, and now I have to tell him: you're right!"

157. The links in the tweets by the ppcaCAMjyt5fXwV Twitter account link to a video in English titled "The COVID-19 come from Fort Detrick and they've been trying to cover up the truth." In sum and substance, the video alleges that the WHO sent a mission to Wuhan to investigate COVID-19's origins after the United States "accused" Wuhan as being the origin of the COVID-19. According to the video, "it was officially confirmed [by the WHO] that Wuhan was not the original source of the new coronavirus." The video

claims that "all clues are gradually leading to the biological laboratory at Fort Detrick in the United States," identifies an American athlete ("Victim-13") who participated in the Wuhan Military Games from the U.S. Army as a possible source of the Wuhan epidemic, and alleges that the U.S. military introduced COVID-19 in 2019 to Italy and possibly Japan. The video includes a photograph of Victim-13.

E. Harassment of Victim-14

158. Group accounts have sought to exacerbate social and political tensions in the United States, to retaliate for U.S. regulatory scrutiny of a PRC-based social media company. As part of this campaign, the Group has used U.S.-based accounts purporting to belong to private individuals, including individuals in the United States, to post content seeking to harass a senior executive at a U.S. social media company ("Victim-14") with common antisemitic tropes.

159. For example, on or about December 31, 2021, the ppcqCAMjyt5fXwV Twitter account stated, "Several western media outlets have reported that it was [Victim-14's] lobbying that heightened the concerns about [the PRC-based social media company] in Washington and ultimately prompted the Trump administration to open an investigation into [the PRC-based social media company]."

160. In a separate tweet on or about December 31, 2021, the ppcqCAMjyt5fXwV Twitter account stated, "A business will only work if there are profits to be made. With a Jewish background, [Victim-14] has the shrewdness and cunning of [his/her] Jewish ancestors in his blood."

161. I assess that the Group is suggesting that any U.S. government investigation into the PRC-based social media company would have been motivated by the personal, political influence of Victim-14.

WHEREFORE, your deponent respectfully requests that arrest warrants issue so that the defendants BAI YUNPENG (白云鹏), CHEN ZHICHEN (陈之琛), GAO CAINAN (高彩楠), GAO HONGTING (高宏亭), HU XIAOHUI (呼啸慧), HUANG CHUNHUI (黄春晖), JIN YI (金乙), JU QIANG (居强), LI BOLUN (李博伦), LI XUAN (李轩), LI XUEYANG (李雪阳), LI ZHEFENG (李哲峰), LIANG SHUANG (梁爽), LIN YUQIONG (林玉琼), also known as "Lin Huishan (林慧姗)," LIU ZHAOXI (刘朝夕), MIAO SHIHUI (苗世辉), SHI LIANGTIAN (史粮田), SONG YANG (I) (宋杨), SONG YANG (II) (宋阳), TAN JINYAN (覃金燕), WANG CHUNJIE (王春杰), WANG SHIPENG (王士朋), WEN JIANXUN (温建勋), XI SHUO (西硕), XI YUE (袭岳), also

known as "Qi Dong (齐栋)," XU YANAN (徐亚楠), XU ZHEN (徐震), XUE WENFENG (薛文峰), also known as "Feng Xu (徐丰)," YANG DALIN (杨大林), YANG MIAO (杨淼), YIN YINA (尹贻娜), YU MIAO (余苗), ZHANG DI (张迪) and ZHOU GUOQIANG (周国强), may be dealt with according to law.

Joseph Hugdahl

JOSEPH HUGDAHL
Special Agent
Federal Bureau of Investigation

Sworn to me through the transmission of this
Affidavit by reliable telephonic and electronic means
pursuant to Federal Rule of Criminal Procedure 4.1, this
6thay of April, 2023

[redacted]

THE HONORABLE SANKET J. BULSARA
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

EXHIBIT 12

U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

February 13, 2023

BY ECF

Honorable Lewis A. Kaplan
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *United States v. Samuel Bankman-Fried*, 22 Cr. 673 (LAK)

Dear Judge Kaplan:

The Government writes in response to the Court's order to supplement its submission with respect to the defendant's conditions of release. *See* Dkt. 65; *see also* 2/9/2023 Tr. at 12-13. The Court indicated that if the parties "need a little more time, you will let me know." 2/9/2023 Tr. at 13. The Government therefore writes to both update the Court on the status of the parties' discussions and to request additional time, until February 17, 2023, to make additional submissions to the Court.

Shortly after the conference, the parties began productive discussions to address the questions raised by the Court on February 9, 2023, and to reach continued consensus with respect to the proposed bail conditions. Today, it came to the Government's attention—based on data obtained through the use of a pen register on the defendant's gmail account—that the defendant used a VPN or "Virtual Private Network" to access the internet on January 29, 2023, and February 12, 2023. After learning this, the Government promptly informed defense counsel and raised concerns about the defendant's use of a VPN. A VPN hides a user's IP address by letting the private network redirect it though a remote server run by the VPN's host. That means that when a user engages in online activity with a VPN, the VPN server becomes the source of the data. In other words, the internet service provider or third parties (like the Government) cannot see which websites a user is visiting or what data is being sent and received online.

As defense counsel has pointed out, and the Government does not dispute, many individuals use a VPN for benign purposes. In the Government's view, however, the use of a VPN raises several potential concerns. First, a VPN is a mechanism of encryption, hiding online activities from third parties, including the Government. Second, it is a means to disguise a user's whereabouts because a VPN server essentially acts as a proxy on the internet. In other words, because the demographic location data comes from a server in another country, a user's IP appears as if it is in that country, and the user's actual location cannot be determined. Third, it allows

access to regional web content that is not otherwise accessible in the United States. For instance, it is well known that some individuals use VPNs to disguise the fact that they are accessing international cryptocurrency exchanges that use IPs to block U.S. users. Fourth, a VPN allows data transfers without detection through a secure, encrypted connection. Fifth, a VPN is a more secure and covert method of accessing the dark web.

The defense maintains that the defendant was not using a VPN for any improper purpose and has indicated that it would like the opportunity to engage in discussions with the Government about the issue. The defense is also prepared to adopt a reasonable bail condition that allays any concerns of the Government or the Court about the use of a VPN, and has represented that the defendant will not use a VPN in the interim. The parties therefore respectfully request additional time, until February 17, 2023, to discuss the implications of the defendant's use of a VPN, to formulate their respective positions on how, if at all, this affects the proposed bail conditions, and to make additional submissions to the Court.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

by: /s/ Danielle R. Sassoon
Danielle R. Sassoon
Nicolas Roos
Danielle Kudla
Samuel Raymond
Thane Rehn
Andrew Rohrbach
Assistant United States Attorneys
(212) 637-1115

Cc: Defense Counsel (by ECF)

EXHIBIT 13

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

22-cr-0673 (LAK)

SAMUEL BANKMAN-FRIED, et al.,

Defendants.

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ORDER

LEWIS A. KAPLAN, *District Judge.*

The parties' motions for an extension of the deadline for their submission or submissions with respect to defendant's conditions of release (Dkt 66; Dkt 67) are denied in part. The parties will supplement their submissions with respect to the defendant's conditions of release by February 15, 2023 at 5:00 p.m. The Court will hear argument on this matter on February 16, 2023 at 2:30 p.m.

It is undisputed by the parties that the defendant has used a VPN or "Virtual Private Network" at least twice to access the internet while on release – and at least once since the Court ordered that the defendant refrain from using any encrypted or ephemeral call or messaging applications. (Dkt 58) The defendant's use of a VPN presents many of the same risks associated with his use of an encrypted messaging or call application. Thus, pending the outcome of the hearing on February 16, I hereby amend the conditions of defendant's release, effective immediately, to prohibit the defendant's use of any VPN. Moreover, the Court extends the February 1, 2023 Order (Dkt 58), as thus amended, until 11:59 p.m. on February 24, 2023.

SO ORDERED.

Dated: February 14, 2023

Lewis A. Kaplan
United States District Judge

EXHIBIT 14

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

SAMUEL BANKMAN-FRIED,
a/k/a "SBF,"

Defendant.

S3 22 Cr. 673 (LAK)

~~[PROPOSED]~~ ORDER

WHEREAS the parties in this case have been engaged in active discussions to come to an agreement on a set of proposed modifications to the Defendant's existing bail conditions to address certain issues raised by the Court;

WHEREAS the parties anticipate being able to present the Court with a proposed order outlining these conditions by the week of March 20, 2023;

WHEREAS the Defendant, in the meantime, needs access to the FTX transactional database (the "AWS Database"), which was provided in the criminal discovery, to prepare his defense;

WHEREAS access to the AWS Database requires the use of a Virtual Private Network ("VPN"), which the Defendant is currently prohibited from using under the existing bail conditions;

IT IS HEREBY ORDERED that the Defendant's bail conditions will be modified ~~as follows~~ by adding the following:

1. The Defendant will be given access to a laptop computer (the "Laptop") that will be configured to allow him to access the AWS Database via a secure VPN connection, pursuant to the following conditions:

a. The Laptop will be owned and controlled by Cohen & Gresser and will not be one of Mr. Bankman-Fried's personal devices.

b. When Mr. Bankman-Fried wishes to use the Laptop, an attorney or paralegal from Cohen & Gresser will bring the Laptop to Mr. Bankman-Fried's residence, remain with Mr. Bankman-Fried while he uses the Laptop, and take back the Laptop and remove it from the residence when he is finished.

c. Mr. Bankman-Fried may use the Laptop only to query, review, and analyze the data in the AWS Database, and share those results with his counsel and others on the defense team.

d. For those purposes, the Laptop will be installed with the Microsoft 11 operating system and its associated programs and will be loaded only with the following additional applications and programs:

   i. AWS VPN client (to access the AWS Database);

   ii. pgAdmin (PostgreSQL tool to query the AWS Database);

   iii. Microsoft Office, including Microsoft Word, Excel, and Access (to create documents and analyze data);

   iv. Adobe Acrobat Reader (to read documents in .pdf format);

   v. 7zip (to create zip files to transfer large files);

   vi. Google Chrome (to send files to the defense team via Mr. Bankman-Fried's Gmail account or via the Cohen & Gresser ShareFile site); and

vii. A remote access support tool (for remote support by Cohen & Gresser).

e. If requested, Cohen & Gresser will provide the Government with device-specific identifying information for the Laptop.

2. Apart from this modification, the Defendant's existing bail conditions will remain in effect.

SO ORDERED.

Dated: March 28, 2023
New York, New York

The Honorable Lewis A. Kaplan
United States District Judge

EXHIBIT 15

Criminal Notice of Appeal - Form A

NOTICE OF APPEAL

United States District Court

Southern District of New York

Caption:

United States v.

Ho Wan Kwok et al.

Docket No.: 23 Cr. 118-1 (AT)

Analisa Torres
(District Court Judge)

Notice is hereby given that Defendant Ho Wan Kwok appeals to the United States Court of Appeals for the Second Circuit from the judgment ___, other | ✓ | Order Denying Release Pending Trial (specify) entered in this action on April 20, 2023 (date).

This appeal concerns: Conviction only |___| Sentence only |___| Conviction & Sentence |___| Other |✓|

Defendant found guilty by plea | | trial | | N/A |✓|.

Offense occurred after November 1, 1987? Yes | | No | | N/A |✓|

Date of sentence: _____ N/A |✓|

Bail/Jail Disposition: Committed |✓| Not committed | | N/A |

Appellant is represented by counsel? Yes ✓ | No | | If yes, provide the following information:

Defendant's Counsel: Stephen R. Cook

Counsel's Address: 2211 Michelson Drive, 7th Fl.
Irvine, California 92612

Counsel's Phone: (949) 440 0215

Assistant U.S. Attorney: Ryan B. Finkel

AUSA's Address: One Saint Andrew's Plaza
New York, New York 10007

AUSA's Phone: (212) 637-6612

Signature

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

CAPTION:

United States of America

v.

Ho Wan Kwok

CERTIFICATE OF SERVICE*

Docket Number: 23-6421

I, Elizabeth Hosang (print name), hereby certify under penalty of perjury that on May 5, 2023 (date), I served a copy of Motion for Leave to Appeal Bail Order (list all documents)

by (select all applicable)**

___ Personal Delivery ___ United States Mail ___ Federal Express or other Overnight Courier

___ Commercial Carrier x E-Mail (on consent)

on the following parties:

Name	Address	City	State	Zip Code
Juliana N. Murray	USDOJ, Criminal Division, SDNY, One Saint Andrew's Plaza	New York	NY	10007
Micah F. Fergenson	USDOJ, Criminal Division, SDNY, One Saint Andrew's Plaza	New York	NY	10007
Ryan B. Finkel	USDOJ, Criminal Division, SDNY, One Saint Andrew's Plaza	New York	NY	10007

*A party must serve a copy of each paper on the other parties, or their counsel, to the appeal or proceeding. The Court will reject papers for filing if a certificate of service is not simultaneously filed.

**If different methods of service have been used on different parties, please complete a separate certificate of service for each party.

May 5, 2023
Today's Date

/s/ Elizabeth Hosang
Signature

Certificate of Service Form (Last Revised 12/2015)