UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

v.

GORDON J. COBURN and
STEVEN SCHWARTZ,

Defendants.

Crim. No. 19-120 (KM)

Honorable Kevin McNulty
United States District Judge

BRIEF IN SUPPORT OF DEFENDANT STEVEN SCHWARTZ'S MOTION REGARDING INTRUSION INTO THE DEFENSE CAMP

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PRELIMINARY STATEMENT

In this motion, Defendant Steven Schwartz respectfully requests that the Court direct the Government and Cognizant Technology Solutions Corporation ("Cognizant") to produce documents and address simple questions aimed at appropriately determining whether Cognizant, which is for all relevant purposes a Government cooperator in this case, has intruded into the defense camp, and whether the Government is aware of this intrusion and information gleaned from it. Mr. Schwartz makes this request in light of troubling and newly-revealed information—including evidence that Cognizant has had repeated unauthorized communications with Mr. Schwartz's lead investigator—and because both Cognizant and the Government have refused to answer questions about this matter. This intrusion, which Cognizant does not deny, raises questions about its scope, whether Cognizant received privileged or otherwise confidential information as a result of it, and whether any such information has been shared by Cognizant with the Government.

As the Court is aware from prior briefing in this matter, and as is undisputed, Cognizant has been actively cooperating with the Government since shortly after its internal investigation began, and to this day is operating under continuing cooperation obligations. Mr. Schwartz has recently learned that Cognizant (whose cooperation the Government has publicly recognized) has, in the guise of challenging its legally established obligation to continue to advance Schwartz's legal fees, engaged in troubling actions that directly implicate Mr. Schwartz' defense in this case. These actions have included efforts to interview Mr. Schwartz's former lawyers and their staff (including administrative staff and student interns), and, since at least July 2020, receiving information from Stephen Ward, the lead investigator for Mr. Schwartz's defense, who, among other things, regularly participated in defense strategy meetings, including numerous in-depth meetings with Mr. Schwartz himself to discuss defense theories, potential investigative steps and

defense strategy, located witnesses and conducted interviews, and worked to obtain evidence in India, among other critical roles as a key member of the defense team.

These efforts—only the latest in a pattern of actions by Cognizant that have interfered with Mr. Schwartz's defense to the charges filed in this case—have resulted in Cognizant gaining access to information regarding legal and investigative work done on Mr. Schwartz's behalf. At a minimum, and whatever their objective, these steps have potentially far-reaching consequences for Mr. Schwartz's right to counsel. Finally, and given Cognizant's close relationship with the Government, including Cognizant's ongoing cooperation agreement with the Government in this prosecution, these actions give rise to legitimate concern that the information gleaned from these intrusions into the defense camp can (deliberately or otherwise) be transmitted to the Government, in violation of Mr. Schwartz's Sixth Amendment right to counsel and his Fifth Amendment right to Due Process.

Mr. Schwartz makes this application to the Court having attempted to raise these issues with the Government as well as with Cognizant. Cognizant, through counsel, has refused to respond to questions regarding whether and when it became aware that it was interfacing with a member of the defense team. The Government has likewise rejected Mr. Schwartz's request for the information necessary for Mr. Schwartz to determine whether (and if so to what extent) the Government has had communications with Cognizant regarding these issues or to disclose what, if any, steps it has taken to prevent them. To the contrary, the Government has invited the defense to "file an application with the [C]ourt" for "additional information or relief relating to these issues." Ex. 1. This is that application.

For the reasons set forth below, and in order to determine basic threshold facts necessary to determine what relief is required, this motion should be granted. The Government (and, through

the Government, Cognizant) should be directed to provide information and documents that show (i) the nature, extent and timing of Cognizant's contacts with the defense's lead investigator and current and former employees and agents of the Bohrer firm; (ii) whether and when they became aware of the defense's lead investigator's position as a member of Mr. Schwartz's legal defense team; (iii) what information was sought and obtained by Cognizant from the defense's lead investigator and current and former employees and agents of the Bohrer firm; and (iv) the Government's role in (and/or knowledge of) the foregoing subject matter.

RELEVANT FACTUAL BACKGROUND

The Indictment in this case charges that the Defendants, as corporate officers of Cognizant, authorized a bribe payment to an unidentified Indian government official to secure and obtain a planning permit necessary for construction of a Cognizant office building in India. Ind. ¶¶ 3–4. On February 13, 2019, the day before the Defendants were indicted, the Government agreed not to prosecute Cognizant on condition that Cognizant, among other things, continue its cooperation with the Government's investigation. As part of that written agreement, Cognizant specifically agreed, in return for the Government's agreement not to prosecute it, "to continue to fully cooperate in the Department's ongoing investigations and/or prosecutions, including but not limited to the continued provision of any information and making available for interviews and/or testimony those officers, employees, or agents who possess relevant information, as determined in the sole discretion of the Department." ECF No. 70 Ex. A.

To defend himself against the charges in this case, Mr. Schwartz has assembled a legal defense team that currently includes Paul, Weiss, Rifkind, Wharton & Garrison LLP, Gibbons P.C., and Bohrer PLLC (the "Bohrer firm"). The defense team in turn retained Polaris Corporate Risk Management ("Polaris"), to assist in conducting investigative work on behalf of Mr. Schwartz.

Despite Cognizant's obligation under its bylaws and an indemnification agreement to advance to Mr. Schwartz reasonable legal fees and expenses associated with his defense in this case and related civil cases, Cognizant has engaged in a continuing course of conduct whereby the Company has repeatedly leveraged its advancement obligation to interfere with Mr. Schwartz's defense. For example, in 2017, Cognizant withheld the advancement of fees to Mr. Schwartz's then-counsel at Steptoe & Johnson LLP in order to effect the return of an image of Mr. Schwartz's laptop, which contained information that was (and still would be) uniquely vital to his defense. *See Schwartz v. Cognizant Tech. Solutions Corp*., No. 2019-1004-AGB (the "Delaware Action") (D.I. 1, Verified Compl. ¶ 31). Then, in November 2019, Cognizant refused to continue advancing fees to the Bohrer firm, which forced Mr. Schwartz to bring an action in the Delaware Chancery Court whereby Cognizant was compelled to meet its contractual obligation to advance Mr. Schwartz's defense costs. *See id*. ¶ 3.

Now, and even after Mr. Schwartz prevailed in the Delaware Action, Cognizant has renewed its efforts, hiring a new law firm to bring potential legal claims directly against the Bohrer firm in connection with its legal bills. Those claims are entirely separate from and independent of the criminal case pending before this Court; this Court is certainly not asked to resolve them. Most importantly, and in whatever manner those issues are resolved, their resolution will not address the issues raised here regarding Cognizant's intrusion into Mr. Schwartz's defense camp, which is the subject of this motion.

In conjunction with hiring a new law firm, and in a transparent attempt to assert the same claims that were rejected in the Delaware Action, Cognizant also retained investigators at Guidepost Solutions LLC ("Guidepost") to interview former and current employees and agents of the Bohrer firm, including attorneys, investigators, administrative staff, and law student interns,

regarding their work on behalf of Mr. Schwartz. Toossi Cert. ¶ 8. Upon learning of the extent of this intrusion into the defense team, on April 7, 2021, Mr. Schwartz's counsel wrote a letter to Cognizant's new law firm demanding that it "immediately cease any efforts to contact and/or question any individuals who are or have been engaged in Mr. Schwartz's defense, including former members of Bohrer PLLC, about anything relating to that work." Ex. 2. The defense also wrote to the Government requesting "that the Government take immediate steps to prevent Cognizant from continuing to act in a manner that will deny Mr. Schwartz his Sixth Amendment right to the counsel of his choice, or otherwise interfere with his constitutional rights by eliciting confidential information about his defense." Ex. 3. The letter to the Government also requested "that the Government disclose to us what, if any communications it has had with Cognizant or its representatives with regard to either the above-referenced Delaware Action or the currently threatened litigation, and/or Cognizant's investigation in connection therewith, as well as any other matters related to the work or reimbursement of Mr. Schwartz's counsel." *Id.* In an April 9 email, the Government, without denying that it had such information, responded that "Cognizant's fee dispute with Mr. Schwartz is a separate civil matter in which we have no involvement. We are not going to take any actions to intervene in that matter. Nor are we going to answer your questions or requests for information, which have no legal basis." Ex. 1. Instead, the Government directed the defense to seek relief from this Court. *See id.* ("If Mr. Schwartz seeks additional information or relief relating to these issues, you should file an application with the court.").

As part of its ongoing tactics directed against Mr. Schwartz's lawyers, Cognizant's counsel provided Mr. Schwartz's defense team with a draft complaint which included information from what Cognizant claimed was an anonymous email containing allegations against the Bohrer firm. After repeatedly and explicitly stating that it did not know the sender's identity, Cognizant

(through counsel) admitted that the email was sent by Stephen Ward, the CEO of Polaris and the lead investigator on Mr. Schwartz's defense team. Toossi Cert. ¶ 6.

The significance of Ward's role on Mr. Schwartz's defense team cannot be overstated. Since 2018, Ward has been intimately involved with nearly every aspect of the investigative efforts undertaken on behalf of Mr. Schwartz's defense under the direction of Mr. Schwartz's defense team and Mr. Schwartz directly. He participated in numerous defense strategy meetings, including discussions with Mr. Schwartz himself and his counsel, both in-person and by phone, regarding defense theories and investigatory leads and tasks; more specifically, he discussed and/or participated in efforts to interview numerous witnesses both in the United States and abroad, where, for example, he engaged an Indian-based investigative service to assist with the on-the-ground investigation in India. *Id.* ¶ 5.

Even more troubling, Ward apparently began to provide confidential information to Cognizant in July 2020 and still continued working on behalf of Mr. Schwartz for the next 10 months, including having discussions directly with Mr. Schwartz. Indeed, some of the allegations in Cognizant's draft complaint relate to events that occurred *after* July 2020 during a period in which Ward, working with Cognizant, was truly acting as a spy in the defense camp, including being involved in specific, sometimes lengthy conversations with Mr. Schwartz himself, regarding important strategic decisions in the case and critical investigative steps to follow. *Id.* ¶ 7.

Accordingly, on May 14, shortly after Cognizant's counsel confirmed Ward's identity as the source of certain information, Mr. Schwartz's counsel wrote a letter formally advising Cognizant that Ward was in fact a member of the defense team and demanding that Cognizant's counsel immediately cease all communications with Ward that in any way relate to his work for or with Mr. Schwartz. Ex. 4. The letter further requested that Cognizant and its agents

immediately return any work product related to Mr. Schwartz's defense that had been obtained from Ward and/or Polaris. *Id.* The next day, counsel for Cognizant replied, stating only that "We're well aware of our ethical obligations with respect to your defense of Mr. Schwartz. We are not now, nor have we ever been, in possession of any privileged or confidential information related to your defense of Mr. Schwartz, written or otherwise." Ex. 5.

Mr. Schwartz's criminal counsel responded with requests to confirm whether the representation that Cognizant's new law firm was not in possession of privileged or confidential information was also true of Cognizant and of Guidepost, and to provide details regarding when Cognizant knew that it was Ward who was providing information, when it became aware that Ward was working on Mr. Schwartz's defense, and what steps had been taken to ensure that Ward did not convey information relating to Mr. Schwartz's defense. *See id.* No response to this request has been forthcoming from either Cognizant or its counsel. Lustberg Cert. ¶ 7. The Government, which also was notified of these facts regarding Ward on May 14, 2021, *see* Ex. 6, still 18 days later has not provided any response whatsoever to this correspondence. Lustberg Cert. ¶ 8.

Cognizant's efforts, including its contacts with current and former Bohrer firm employees, and especially its gathering information from Ward, Mr. Schwartz's primary investigator, has the purpose, and certainly has had the effect, of interfering in Mr. Schwartz's defense and especially his preparation for trial. These actions, about which the Government has refused to provide any information, including refusing to confirm or deny its awareness of them, are at least a potentially significant intrusion into the defense camp, in contravention of Schwartz's Fifth and Sixth Amendment rights as well as applicable attorney-client and work product privileges.

LEGAL ARGUMENT

I. LEGAL FRAMEWORK

Chief among the vital protections that our Constitution guarantees to individuals facing

criminal prosecution is the right to the assistance of counsel. *U.S. Const. amend. VI* ("In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence."). Significantly, this right applies to the period between indictment and trial, which the Supreme Court has described as "'perhaps the most critical period of the proceedings, when consultation, thorough-going investigation and preparation (are as) vitally important'" as at trial itself. *Massiah v. United States*, 377 U.S. 201, 205 (1964) (quoting *Powell v. Alabama*, 287 U.S. 45, 57 (1932)). Indeed, the right to counsel is "indispensable to the fair administration of our adversarial system of justice," as it "safeguards the other rights deemed essential for the fair prosecution of a criminal proceeding." *Maine v. Moulton*, 474 U.S. 159, 169 (1985).

Following the return of an indictment, the Government violates that protection by invading the defense camp, for example by using an informant to surreptitiously elicit incriminating statements from the defendant without the presence of counsel. *See*, *e.g.*, *United States v. Henry*, 447 U.S. 264, 266 (1980) (where Government told jailhouse informant to be alert to statements, but not to initiate conversations with defendant, Government violated Sixth Amendment right to counsel by "intentionally creating a situation likely to induce [defendant] to make incriminating statements without the assistance of counsel"); *Massiah*, 377 U.S. at 202-05 (cooperating co-defendant permitted government agents to listen via radio to secret conversations with defendant). "The Sixth Amendment guarantees the accused, at least after the initiation of formal charges, the right to rely on counsel as a 'medium' between him and the State. . . . this guarantee includes the State's affirmative obligation not to act in a manner that circumvents the protections accorded the accused by invoking this right." *Moulton*, 474 U.S. at 176. This affirmative obligation to protect a defendant's Sixth Amendment rights does not merely impose a restriction against intentional violations; rather, it requires the Government to affirmatively avoid complicity in such violations.

See id. ("knowing exploitation by the State of an opportunity to confront the accused without counsel being present is as much a breach of the State's obligation not to circumvent the right to the assistance of counsel as is the intentional creation of such an opportunity").

The Supreme Court has made clear that the Sixth Amendment right to counsel is violated not only when the Government or its agents elicit incriminating statements, as occurred in *Massiah*, for example, but also when they intrude into the defense camp to obtain information regarding defense strategy. *See Hoffa v. United States*, 385 U.S. 293, 306-07 (1966) (citing *Caldwell v. United States*, 205 F.2d 879, 880, 882 (D.C. Cir. 1953), in which the court granted a new trial where a government agent also served as defense assistant to obtain access to the planning of the defense, and *Coplon v. United States*, 191 F.2d 749, 757 (D.C. Cir. 1951), in which the Court found that government agents' deliberately intercepting defendant's telephone consultations with her lawyer before and during trial violated the Sixth Amendment). Thus, in the Third Circuit, the Government violates the Sixth Amendment not only when "the government . . . intentionally plants an informer in the defense camp," but also "when confidential defense strategy information is disclosed to the prosecution by a government informer; or . . . when there is no intentional intrusion or disclosure of confidential defense strategy, but a disclosure by a government informer leads to prejudice to the defendant." *United States v. Costanzo*, 740 F.2d 251, 254 (3d Cir. 1984) (citing *Weatherford v. Bursey*, 429 U.S. 545 (1977)). In *United States v. Danielson*, 325 F.3d 1054, 1070 (9th Cir. 2003), the Government took no action after it was put on notice of potential Sixth Amendment violations resulting from a Government cooperator's actions to obtain defense strategy; as a result, the Court remanded for an evidentiary hearing, noting that the burden of showing prejudice must shift to the Government to show that all pre-trial and trial strategy it obtained was based on independent sources. *Id.* at 1073-74.

Beyond violating the Sixth Amendment, intrusion into the defense camp may also violate a defendant's right to Due Process under the Fifth Amendment. *United States v. Voigt*, 89 F.3d 1050, 1064 (3d Cir. 1996) (citing *Rochin v. California*, 342 U.S. 165 (1952)); *see also United States v. Stringer*, 535 F.3d 929, 941 (9th Cir. 2008) ("government interference with a defendant's relationship with his attorney may render counsel's assistance so ineffective as to violate . . . his Fifth Amendment right to due process of law."); *United States v. Haynes*, 216 F.3d 789, 793-94 (9th Cir. 2000) (defendant's attorney's investigator served as a paid informant for the Government). In order to assess whether the elements of a Due Process violation have been established, courts in this Circuit are required to take steps to ascertain the facts necessary to assess such a claim. *Voigt*, 89 F.3d at 1067-68 (factual determinations should be resolved at an evidentiary hearing to determine whether dismissal or suppression is a more appropriate remedy).

Whether the claim is one of a Fifth or a Sixth Amendment violation, the action of cooperating parties, like Cognizant here, may—depending on the underlying facts—become the actions of the Government. Thus, for example, in the landmark case of *United States v. Stein*, 541 F.3d 130, 137-39 (2d Cir. 2008), the actions of a company acting under a deferred prosecution agreement, which included a commitment to cooperate with the Government in its investigation and prosecution of its employees, by capping, conditioning, and ultimately refusing payment of legal fees, was held to be Government action. Indeed, the Government violates a defendant's constitutional rights under the Fifth and Sixth Amendments even where it specifically instructs its cooperator "not to initiate any conversation with or question [a defendant] regarding the [offense for which he has been indicted]." *Henry*, 447 U.S. at 266; *see also United States v. Geittmann*, 733 F.2d 1419, 1427 (10th Cir. 1984) (though government instructed informant to stop taping conversations with defendant, the court assumed an agency relationship absent evidence by the

government that its agents asked the informant to cease eliciting statements from defendant). "[I]t is not the government's intent or overt acts that are important; rather, it is the likely . . . result' of the government's acts" or inaction – the Government cannot simply turn a blind eye to a rogue cooperating witness to its benefit and defendant's detriment. *Randolph v. California*, 380 F.3d 1133, 1144 (9th Cir. 2004) (quoting *Henry*, 447 U.S. at 271); *see Danielson*, 325 F.3d at 1073. A court must "analyze the facts and circumstances of a particular case to determine whether there exists an express or implied agreement between the State and the informant. . . . To hold otherwise would allow the State to accomplish with a wink and a nod what it cannot do overtly. This, the Sixth Amendment does not permit." *Ayers v. Hudson*, 623 F.3d 301, 311 (6th Cir. 2010). To this end, the Third Circuit and other courts have required that courts engage in appropriate fact-finding to assess whether cooperators are acting as agents of the Government for purposes of evaluating whether the Government has violated a defendant's constitutional rights to the assistance of counsel and due process and if so, what the remedy for such action should be. *See, e.g.*, *Voigt*, 89 F.3d at 1067-68 (factual determinations should be resolved at an evidentiary hearing to determine whether dismissal or suppression is a more appropriate remedy); *United States v. Brink*, 39 F.3d 419, 422-24 (3d Cir. 1994) (directing trial court to conduct evidentiary hearing where defendant raised colorable claim that Government violated his constitutional right to counsel by placing him in a cell with a known informant who, though not directed to elicit statements with respect to defendant, may have been acting as a Government agent to later seek leniency); *see also Danielson*, 325 F.3d at 1073-74 (remanding for evidentiary hearing and noting burden shift to government to show that all pre-trial and trial strategy was based on independent sources where informant elicited defendant's trial strategy information); *United States v. Johnson*, 4 F.3d 904, 910, 912 (10th Cir. 1993) ("If an informant subsequently receives a benefit, it may be evidence

that a prior agreement [to act as a government agent] did exist"); *United States v. York*, 933 F.2d 1343, 1357-58 (7th Cir.) (district court conducted hearing to determine whether, even in the absence of explicit agreement, cooperator was a government agent while interacting with defendant), *cert. denied*, 502 U.S. 916 (1991), *overruled on other grounds*, *Wilson v. Williams*, 182 F.3d 562 (7th Cir. 1999).

II. ANALYSIS

Here, in order to develop the factual record necessary to determine whether (and if so what) relief is appropriate, the Court should, in the first instance, and as it has done before, *see* ECF No. 139 (requiring that "the government place in the form of an affidavit, declaration, or certification, from a witness or witnesses with knowledge, its answers to questions" regarding the extent of investigative cooperation between the DOJ and SEC), order the Government (and, through the Government, Cognizant) to respond to the questions posed by the defense and to produce documents that show (i) the nature, extent and timing of Cognizant's contacts with the defense's lead investigator and current and former employees and agents of the Bohrer firm; (ii) whether and when they became aware of the defense's lead investigator's position as a member of Mr. Schwartz's legal defense team; (iii) what information was sought and obtained by Cognizant from the defense's lead investigator and current and former employees and agents of the Bohrer firm; and (iv) the Government's role in (and/or knowledge of) the foregoing subject matter.

The requested information is discoverable under Federal Rule of Criminal Procedure 16(a)(1)(E) (requiring production by the government, upon a defendant's request, of documents material to preparing the defense), which provision is applicable to pretrial motion practice. *See, e.g.*, *United States v. Soto-Zuniga*, 837 F.3d 992, 1001 (9th Cir. 2016) ("Rule 16(a)(1)(E) permits discovery to determine whether evidence in a particular case was obtained in violation of the Constitution and is thus inadmissible."); *United States v. Mitrovich*, 458 F. Supp. 3d 961, 967

(N.D. Ill. 2020) (granting motion to compel under Rule 16(a)(1)(E) because the defendant "has made a *prima facie* showing that the discovery is material to a Fourth Amendment motion to suppress that he might file"); *United States v. Eiland*, No. 04-379 (RCL), 2005 WL 8176685, at *1 (D.D.C. Apr. 12, 2005) (noting that documents "could well be material and necessary, under Federal Rule of Criminal Procedure 16(a)(1)(E), to a motion to suppress"). *See also* Fed. R. Crim. P. 26.2(a) (requiring production of witness statements, including in connection with pretrial hearings); *United States v. Lew*, No. 2:17-cr-21-JCM-GWF, 2018 WL 4215094, at *6 (D. Nev. Sept. 4, 2018) (Rule 26.2(g) extends application of Jencks Act "to the production of a government witness's statement after the witness has testified at a suppression hearing or other pretrial evidentiary hearing."). Even the limited facts available to the defense at this juncture reveal troubling evidence of interference by the Government's cooperator with Mr. Schwartz's Sixth Amendment right to counsel. That is, Cognizant, in exchange for the ultimate leniency—non-prosecution—entered into an agreement with the Government whereby it agreed to "fully cooperate in the Department's ongoing investigations and/or prosecutions, including but not limited to the continued provision of any information." ECF No. 70 Ex. A. While subject to this agreement, Cognizant – though legally obligated to advance Mr. Schwartz's reasonable legal fees – last year ceased advancement of Mr. Schwartz's legal fees until ordered to do so by a Delaware Chancery Court, itself a relevant fact. *See Stein*, 541 F.3d at 137-39. Then, notwithstanding that Order, Cognizant, through counsel, hired investigators who began interviewing Mr. Schwartz's former lawyers and their staff, including paralegals and law student interns, at least some of whom were aware of aspects of Mr. Schwartz's defense strategy. Toossi Cert. ¶ 8. And most egregiously, Cognizant's attorneys and investigators have received information from Stephen Ward, the CEO of Polaris Corporate Risk Management, who has served as the lead investigator for Mr. Schwartz

throughout his criminal proceedings. *Id.* ¶¶ 4-7. Indeed, Ward was an integral member of Mr. Schwartz's defense team, having participated in strategy meetings, including with Mr. Schwartz, discussions of defense theories and the pursuit of investigatory leads, and having coordinated and conducted witness interviews. *Id.* ¶ 5.

These facts require that the Court at the very least ascertain basic answers to determine whether further inquiry, through a hearing, for example, is necessary. *See Voigt*, 89 F. 3d at 1067 (holding that a defendant is entitled to a hearing where the defendant's moving papers "demonstrate a 'colorable claim' for relief . . . [by raising] issues of fact material to the resolution of the defendant's constitutional claim. . . . Voigt's moving papers raised enough of a specter of ethical impropriety on the government's part to warrant closer scrutiny."); *Brink*, 39 F.3d at 422-24 (directing trial court to conduct evidentiary hearing where defendant raised colorable claim that Government violated constitutional right to counsel). As noted above, this Court has previously proceeded in just the manner suggested here, requiring that "the government place in the form of an affidavit, declaration, or certification, from a witness or witnesses with knowledge, its answers to questions" regarding the extent of investigative cooperation between the DOJ and SEC). ECF No. 139. It should employ the same process here.

CONCLUSION

For the foregoing reasons, Defendant Schwartz respectfully requests that the Court grant this motion and require that the Government (and, through the Government, Cognizant) respond to the questions posed by the defense and to produce documents that show (i) the nature, extent and timing of Cognizant's contacts with the defense's lead investigator and current and former employees and agents of the Bohrer firm; (ii) whether and when they became aware of defense's lead investigator's position as a member of Mr. Schwartz's legal defense team; (iii) what information was sought and obtained by Cognizant from the defense's lead investigator and current

and former employees and agents of the Bohrer firm; and (iv) the Government's role in (and/or knowledge of) the foregoing subject matter.

Dated: June 1, 2021

Respectfully submitted,

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