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8 Attorneys for Plaintiff
 9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ALEXANDER SMIRNOV,

16 Defendant.

No. CR 2:24-cr-00091-ODW

GOVERNMENT'S APPLICATION FOR
REVIEW OF MAGISTRATE JUDGE'S BAIL
ORDER; MEMORANDUM OF POINTS AND
AUTHORITIES; EXHIBITS

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 18
 19 Plaintiff United States of America, by and through its counsel
 20 of record, the Office of Special Counsel David C. Weiss, hereby
 21 applies to Honorable Judge Otis D. Wright for review of the February
 22 20, 2024, order of bail release upon conditions issued by the
 23 Honorable Magistrate Judge Daniel J. Albrechts, of the United States
 24 District Court for the District of Nevada. The government moved
 25 Magistrate Judge Albrechts to stay his order, which he denied.

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 No condition or combination of conditions will reasonably assure
4 the appearance of the defendant Alexander Smirnov as required. See
5 18 U.S.C. § 3142 (e) (1); see also *United States v. Hir*, 517 F.3d 1081,
6 1086 (9th Cir. 2008). As discussed in more detail below, the nature
7 and circumstances of the offense, weight of the evidence, and the fact
8 that Smirnov's ties to the community are weak establish that Smirnov
9 should be detained. But, in addition, there are four indisputable
10 facts related to the characteristics of Smirnov that compel detention.

11 First, he claims to have contacts with multiple foreign
12 intelligence agencies and had plans to leave the United States two
13 days after he was arrested last week for a months-long, multi-country
14 foreign trip. During this trip, the defendant claimed to be meeting
15 with foreign intelligence contacts. Those foreign intelligence
16 agencies could resettle Smirnov outside the United States if he were
17 released.

18 Second, he has access to over \$6 million in liquid funds—more
19 than enough money for him to live comfortably overseas for the rest
20 of his life.

21 Third, Smirnov did not disclose to Pretrial Services his access
22 to these funds. He told Pretrial Services he only had \$1,500 in cash-
23 on-hand and \$5,000 in a personal checking account. See Exhibit 11 at
24 page 2. As the attached bank statements make clear, as of the end-
25 of-December, Smirnov has access to more than \$2.9 million, see Exhibit
26 4 (under seal) and his wife/girlfriend (he refers to her both ways)
27 (hereafter "DL") has access to more than \$3.8 million, see Exhibit 7
28 (under seal). The latter's funds are available to him because most

1 of the money in DL's account originated with Smirnov and she pays his
2 personal expenses out of her account; in other words, these appear to
3 be shared funds or funds controlled by Smirnov, regardless of whose
4 name is on the bank account. The fact that Smirnov misrepresented his
5 assets alone should cause Smirnov to be detained because it shows
6 that, at the first opportunity, he did not provide true and complete
7 information to Pretrial Services.

8 Fourth, as an Israeli citizen, Smirnov can obtain a new passport
9 at any time by visiting an Israeli consulate. The closest Israeli
10 consulate is approximately 5 hours away in Los Angeles, California.
11 Thus, even if he turns in his U.S. and Israeli passports, Pretrial
12 Services has no way to prevent him from obtaining a new Israeli
13 passport and leaving the United States using it at any time.

14 II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

15 Smirnov was a confidential human source ("CHS") with the Federal
16 Bureau of Investigation ("FBI"). Indictment ¶ 2. As a CHS, Smirnov
17 was assigned a handling agent (hereafter "the Handler") who was a
18 special agent on an FBI squad that investigated violations of federal
19 criminal law. *Id.*

20
21 Despite repeated admonishments that he must provide truthful
22 information to the FBI and that he must not fabricate evidence, Smirnov
23 provided false derogatory information to the FBI about Public Official
24 1, an elected official in the Obama-Biden Administration who left
25 office in January 2017, and Businessperson 1, the son of Public
26 Official 1, in 2020, after Public Official 1 became a candidate for
27 President of the United States of America. *Id.* at ¶ 6.
28

1 In March 2017, Smirnov reported to the Handler that he had had a
2 phone call with the owner of Ukrainian industrial conglomerate Burisma
3 Holdings, Limited (hereafter "Burisma Official 1") concerning
4 Burisma's interest in acquiring a U.S. company and making an initial
5 public offering ("IPO") on a U.S.-based stock exchange. *Id.* at ¶ 6(a).
6 In reporting that conversation to the Handler, Smirnov also noted that
7 Businessperson 1, Public Official 1's son, was a member of Burisma's
8 Board, a fact that was publicly known. *Id.*

10 Three years later, in June 2020, Smirnov reported, for the first
11 time, two meetings in 2015 and/or 2016, during the Obama-Biden
12 Administration, in which he claimed executives associated with
13 Burisma, including Burisma Official 1, admitted to him that they hired
14 Businessperson 1 to "protect us, through his dad, from all kinds of
15 problems," and later that they had specifically paid \$5 million each
16 to Public Official 1 and Businessperson 1, when Public Official 1 was
17 still in office, so that "[Businessperson 1] will take care of all
18 those issues through his dad," referring to a criminal investigation
19 being conducted by the then-Ukrainian Prosecutor General into Burisma
20 and to "deal with [the then-Ukrainian Prosecutor General]." *Id.* at
21 ¶ 6(b).

23 Smirnov also reported two purported phone calls between himself
24 and Burisma Official 1 wherein Burisma Official 1 stated that he had
25 been forced to pay Public Official 1 and Businessperson 1 and that it
26 would take investigators 10 years to find records of illicit payments
27 to Public Official 1. *Id.* at ¶ 6(c).

1 The events Smirnov first reported to the Handler in June 2020
2 were fabrications. *Id.* at ¶ 6(d). In truth and fact, Smirnov had
3 contact with executives from Burisma in 2017, after the end of the
4 Obama-Biden Administration and after the then-Ukrainian Prosecutor
5 General had been fired in February 2016, in other words, when Public
6 Official 1 had no ability to influence U.S. policy and when the
7 Prosecutor General was no longer in office. *Id.* In short, Smirnov
8 transformed his routine and unextraordinary business contacts with
9 Burisma in 2017 and later into bribery allegations against Public
10 Official 1, the presumptive nominee of one of the two major political
11 parties for President, after expressing bias against Public Official
12 1 and his candidacy. *Id.*

14 When he was interviewed by FBI agents in September 2023, Smirnov
15 repeated some of his false claims, changed his story as to other of
16 his claims, and promoted a new false narrative after he said he met
17 with Russian officials. *Id.* at ¶ 6(e).

19 On February 14, 2024, a federal grand jury in the Central District
20 of California returned a two-count indictment charging Smirnov with
21 one count of making false statements to federal law enforcement, in
22 violation of 18 U.S.C. § 1001 (Count One) and; one count of fabricating
23 information in a federal investigation, in violation of 18 U.S.C.
24 § 1519 (Count Two). *United States v. Smirnov*, Cr. No. 2:24-cr-00091-
25 ODW (C.D. Cal. Feb. 14, 2024, ECF 1).

27 That same day, Smirnov was arrested in the District of Nevada as
28 he returned to the United States on an international flight. Smirnov

1 was scheduled to leave the United States two days later, on February
2 16, 2024, for a months-long, multi-country trip that, by his own
3 description, involved meetings with officials of foreign intelligence
4 agencies and governments. During his custodial interview on February
5 14, Smirnov admitted that officials associated with Russian
6 intelligence were involved in passing a story about Businessperson 1.
7

8 On February 15, 2024, Smirnov had an initial appearance in the
9 District of Nevada. At that time the government moved for detention
10 pursuant to 18 U.S.C. § 3142(f)(2)(a) and (b) on the basis that Smirnov
11 posed a serious risk of flight and a serious risk of obstruction of
12 justice. The Government requested a three (3) day continuance of the
13 detention hearing, pursuant to 18 U.S.C. § 3142(f)(2).
14

15 A detention hearing was held scheduled in his matter on
16 February 20, 2024, before United States Magistrate Judge Daniel J.
17 Albregts of the United States District Court for the District of
18 Nevada. At that hearing, United States Magistrate Judge Albregts
19 found the government had proven that the defendant posed a serious
20 risk of flight by a preponderance of the evidence but that the
21 government had not proven by a preponderance of the evidence that no
22 condition or combination of conditions could reasonably assure his
23 appearance. United States Magistrate Judge Albregts ordered Smirnov
24 released on a personal recognizance bond and conditions.
25

26 III. APPLICABLE LAW

27 A. Standard of Review

28 A de novo standard of review, not a deferential standard, is

1 applied to a district court's review of a magistrate's bail order.
2 *United States v. Koenig*, 912 F.2d 1190, 1192-93 (9th Cir. 1990).
3 The court in *Koenig* made clear that the district court's review is
4 independent and that the district court may also hold an evidentiary
5 hearing:

6
7 [In reviewing a magistrate judge's bail order, the
8 district court] should review the evidence before the
9 magistrate and make its own independent determination
10 whether the magistrate's findings are correct, with no
11 deference. If the performance of that function makes it
12 necessary or desirable for the district judge to hold
13 additional evidentiary hearings, it may do so, and its
14 power to do so is not limited to occasions when evidence
15 is offered that was not presented to the magistrate.

16 *Id.* at 1193.

17
18 B. The Bail Reform Act

19 The Bail Reform Act of 1984 ("the Act") permits pretrial
20 detention of a defendant without bail where "no condition or
21 combination of conditions will reasonably assure the appearance of
22 the person as required and the safety of any other person and the
23 community." 18 U.S.C. § 3142(e). Detention is appropriate where a
24 defendant is either a danger to the community or a flight risk; it
25 is not necessary to prove both. *United States v. Motamedi*, 767 F.2d
26 1403, 1406 (9th Cir. 1985); *United States v. Kouyoumdjian*, 601 F.
27 Supp. 1506, 1508-10 (C.D. Cal. 1985). A finding that a defendant

28 Title 18, United States Code, Section 3142 (hereafter the "Bail
Reform Act") specifically provides, in relevant part, that "the
judicial officer shall, in determining whether there are conditions

1 of release that will reasonably assure the appearance of the person
2 as required” consider the following factors:

3 (1) the nature and circumstances of the offense charged ...;

4 (2) the weight of the evidence against the person;

5 (3) the history and characteristics of the person,
6 including—

7 (A) the person’s character, physical and mental
8 condition, family ties, employment, financial resources,
9 length of residence in the community, community ties, past
10 conduct, history relating to drug or alcohol abuse,
11 criminal history, and record concerning appearance at court
12 proceedings; ...

13 18 U.S.C. § 3142(g); *United States v. Santos-Flores*, 794 F.3d
14 1088, 1091 (9th Cir. 2015). A finding that that there are no
15 conditions that will reasonably assure a Smirnov’s appearance
16 need only be established by a preponderance of the evidence.
17 *Santos-Flores*, 794 F.3d at 1090; *United States v. Gebro*, 948
18 F.2d 1118, 1121 (9th Cir.1991); *United States v. Motamedi*, 767
19 F.2d 1403, 1407 (9th Cir. 1985). “More finely put, this means
20 that the Government must demonstrate that it is more likely than
21 not that there is a serious risk that the Smirnov will flee, not
22 that that it is more likely than not that the Smirnov will flee.
23 *United States v. Figueroa-Alvarez*, No. 4:23-CR-00171-DCN, 2023
24 WL 4485312, at *5 (D. Idaho July 10, 2023); see *United States v.*
25 *Duarte-Vela*, No. 2:23-cr-00009-TOR-1, Amended Order Following
26 Status Hearing Regarding Detention and Detention Hearing at 7
27 (Dkt. 32) (E.D. Wa. Jan. 25, 2023); *Alvarenga-Canan*, No. 1:23-

1 cr-00042-BLW, Tr. at 7 (Dkt. 26) ("It's got to be 51 percent of
2 a serious risk.").

3 IV. THE DEFENDANT POSES A SERIOUS RISK OF FLIGHT AND THERE ARE NO
4 CONDITIONS THAT CAN REASONABLY ASSURE HIS APPEARANCE

5
6 A. Smirnov is charged with lying to law enforcement and
7 fabricating evidence.

8
9 The nature and circumstances of the offense make clear that there
10 are no conditions of release that will reasonably assure the appearance
11 of Smirnov. Pretrial supervision is, at its core, based on trust.
12 Pretrial Services must trust a defendant to abide by the conditions
13 the court imposes and to accurately report information requested by
14 Pretrial Services as they attempt to police those conditions. The
15 circumstances of the offenses charged—that Smirnov lied to his FBI
16 Handler after a 10-year relationship where the two spoke nearly every
17 day—means that Smirnov cannot be trusted to provide truthful
18 information to Pretrial Services. Critically, Smirnov lied to his FBI
19 Handler after repeated admonishments that the information he provided
20 to the FBI must be truthful. And the false information he provided
21 was not trivial. It targeted the presumptive nominee of one of the
22 two major political parties in the United States. The effects of
23 Smirnov's false statements and fabricated information continue to be
24 felt to this day. Now the personal stakes for Smirnov are even higher.
25 His freedom is on the line. If he could not be trusted to report
26 truthful information to his FBI Handler, he cannot be trusted to report
27 truthful information to Pretrial Services.

1 B. The weight of the evidence against Smirnov is strong.

2 As described in the indictment, the evidence against Smirnov is
3 strong.

4 In sum, Smirnov's own travel records, emails and messages with
5 his Handler, along with emails and travel records of the individuals
6 who Smirnov claimed to have attended the two meetings with him, will
7 all be used as evidence against him. Further, the individuals who
8 participated in these meetings and phone calls will refute that there
9 was ever any discussion of Public Official 1 or Businessperson 1 in
10 those meetings or any phone calls at all.

11 C. The history and characteristics of Smirnov make clear that
12 no conditions can reasonably assure his appearance.

13
14 Smirnov's personal history and characteristics also weigh in favor
15 of detention. Smirnov has very weak ties to the community in Las Vegas.
16 He has only lived in Las Vegas since 2022. Exhibit 11 at 1. The
17 condominium where he lives is owned by DL, a fact about which he lied,
18 as will be addressed below. Exhibit 1 (under seal). He has no family
19 in Las Vegas. To the contrary, he reports that his mother, father,
20 and sister all reside in Israel. *Id.* Smirnov lived in Israel from
21 1992 to 2006, longer than he has lived in the United States. *Id.* He
22 does not report any employment that is located in Las Vegas. Instead,
23 he claims to have a "security business," that is registered in
24 California, where he used to live. See Exhibit 11 at 2. DL, with whom
25 he lives, does not appear to even know what he does. *Id.* Nor do his
26 bank records reflect that he is in the "security business," as he
27 claims. *Id.* Instead, the statements for the accounts he controls show
28 large wire transfers from what appear to be venture capital firms and

1 individuals. See Exhibit 4 (under seal).

2 1. Smirnov claims to have contact with foreign intelligence
3 agencies.

4 While Smirnov has no ties to the community in Las Vegas, what he
5 does have is extensive foreign ties, including, most troublingly and
6 by his own account, contact with foreign intelligence services,
7 including Russian intelligence agencies, and has had such contacts
8 recently. Smirnov could use these contacts to resettle outside the
9 United States.

10 As noted, law enforcement knows about Smirnov's contact with
11 officials affiliated with Russian intelligence because Smirnov himself
12 reported on a number of those contacts to his FBI Handler. As described
13 below, these contacts are extensive and extremely recent, and Smirnov
14 had the intention of meeting with one of these officials on his
15 upcoming planned overseas travel.

16 Of particular note, Smirnov has reported numerous contacts with
17 Russian Official 1, who has been described by Smirnov in a number of
18 ways, including as the son of a former high-ranking Russian
19 government official, someone who purportedly controls two groups of
20 individuals tasked with carrying out assassination efforts in a
21 third-party country, a Russian representative to another country,
22 and as someone with ties to a particular Russian intelligence
23 service. This latter fact was reported by Smirnov in October, 2023.

24 In December 2023, Smirnov reported to his Handler about a recent
25 overseas trip, where Smirnov attended a meeting with Russian Official
26 2, who Smirnov has described as a high-ranking member of a specific
27 Russian foreign intelligence service. According to Smirnov, the
28 purpose of the meeting was to discuss a potential resolution to

1 Russia's war against Ukraine. During this same trip, Smirnov
2 apparently attended a separate meeting with Russian Official 1, the
3 individual who controls groups that are engaged in overseas
4 assassination efforts. During this meeting with Russian Official 1,
5 Russian Official 1 claimed that another individual, Russian Official
6 4, the head of a particular unit of a Russian Intelligence Service,
7 ran an intelligence operation at a "club" located at a particular
8 hotel. Smirnov told the FBI Handler that the Russian Intelligence
9 Service intercepted cell phone calls made by guests at the hotel. The
10 Russian Intelligence Service intercepted several calls placed by
11 prominent U.S. persons the Russian government may use as "kompromat"
12 in the 2024 election, depending on who the candidates will be. As
13 described below, this story, which again was relayed by Smirnov to his
14 Handler in/about December, 2023, appears to mirror the story that
15 Smirnov was pushing on investigators and prosecutors during their
16 meeting with him in September, 2023 (in which Smirnov pushed
17 investigators to look into whether Businessperson 1 had been recorded
18 in a foreign hotel).

19 Most recently, Smirnov has reported:

- 20 • Meetings in or about December 2023, outside the United States,
21 between top officials of another country and Russian officials;
- 22 • Contact with a Russian official on November 27, 2023, where the
23 Russian official provided Smirnov with information on his
24 knowledge of certain Russian military operations in a third
25 country; and
- 26 • Contact with a Russian intelligence service operative and top
27 Russian representative to a third country on November 8, 2023.

1 Exhibit 2.

2 The following is a declassified summary of additional contacts
3 that predate the contacts referenced above and in Exhibit 2. This
4 summary was prepared by the FBI and taken from several reports he made
5 to the FBI:

6
7 1. (U//FOUO) (Document 1)

8 a. (U//FOUO) In or about October 2023, SMIRNOV reported the
9 following:

- 10 i. (U//FOUO) SMIRNOV was invited to and planned to
11 attend the birthday party of an identified
12 individual in the Middle East, COUNTRY A, which
13 would include activities on a mega yacht owned by a
14 high-ranking member of Russia's largest steel and
15 mining company. SMIRNOV provided the names of
16 individuals who might attend the birthday
17 activities, including RUSSIAN OFFICIAL 1, who he
18 identified as the son of a high-ranking former
19 Russian government official, and RUSSIAN INDIVIDUAL
20 1, a high-ranking member of a Russia state-owned
21 defense conglomerate.

22 2. (U//FOUO) (Document 2)

23 a. (U//FOUO) In or about January 2023, SMIRNOV reported the
24 following:

- 25 i. (U//FOUO) In December 2022, SMIRNOV learned from a
26 Russian Foreign Intelligence official the
27 whereabouts of a particular Russian Foreign
28 Intelligence officer living outside of Russia.
ii. (U//FOUO) In or about January 2023, SMIRNOV spoke to
another Russian Foreign Intelligence officer who
provided the first name of the Russian Foreign
Intelligence officer living outside of Russia.

3. (U//FOUO) (Document 3)

a. (U//FOUO) On or about August 2023, SMIRNOV reported the
following:

- i. (U//FOUO) SMIRNOV had been introduced to RUSSIAN
INDIVIDUAL 2, a high-ranking member of a Russian
steel company. RUSSIAN INDIVIDUAL 2 was organizing
a birthday party for another person on RUSSIAN
INDIVIDUAL 2's mega yacht. RUSSIAN INDIVIDUAL 2
mentioned that two of the oligarchs who would be
attending the party have "connections" or "business
ties" to a high-ranking member of a Russian Foreign

1 Intelligence Service, RUSSIAN OFFICIAL 2. Because of
2 the language used by RUSSIAN INDIVIDUAL 2, SMIRNOV
3 was not clear about the precise nature of the
4 relationship between the identified Russian
5 oligarchs and RUSSIAN OFFICIAL 2, a high-ranking
6 member of a Russian Foreign Intelligence Service.

7 4. (U//FOUO) (Document 4)

8 a. (U//FOUO) In or about October 2023, SMIRNOV reported the
9 following information (this information was provided to
10 supplement Document 1):

- 11 i. (U//FOUO) The planned COUNTRY A birthday party may be
12 attended by RUSSIAN OFFICIAL 1, the son of a former
13 high-ranking Russian government official. An
14 associate of SMIRNOV provided SMIRNOV with a copy of
15 RUSSIAN OFFICIAL 1's passport.

16 5. (U//FOUO) (Document 5)

17 a. (U//FOUO) In or about November 2023, SMIRNOV reported the
18 following information:

- 19 i. (U//FOUO) SMIRNOV learned from RUSSIAN OFFICIAL 1
20 himself, that RUSSIAN OFFICIAL 1 has direct access
21 to the highest levels of the Russian government.
22 Although RUSSIAN OFFICIAL 1's father was a former
23 high-ranking government official in Russia, RUSSIAN
24 OFFICIAL 1's access to the highest levels of the
25 Russian government is direct, and not through his
26 father.
- 27 ii. (U//FOUO) RUSSIAN OFFICIAL 1 is a top, unofficial
28 representative of Russia to COUNTRY B.
- iii. (U//FOUO) SMIRNOV provided a photograph of RUSSIAN
OFFICIAL 1 taken in or about November 2023, during
RUSSIAN OFFICIAL 1's visit to COUNTRY A.

6. (U//FOUO) (Document 6)

a. (U//FOUO) In or about November 2023, SMIRNOV reported the
following information:

- i. (U//FOUO) SMIRNOV learned from sources, including
RUSSIAN OFFICIAL 1, that a particular individual,
RUSSIAN OFFICIAL 3, is the representative of the
former head of a particular unit of a Russian
Intelligence Service, RUSSIAN OFFICIAL 4.
- ii. (U//FOUO) SMIRNOV provided information about RUSSIAN
OFFICIAL 4's chain of command. SMIRNOV named three
individuals who have direct, immediate access to the
highest levels of the Russian government, including
the father of RUSSIAN OFFICIAL 1.

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7. (U//FOUO) (Document 7)

a. (U//FOUO) In or about December 2023, SMIRNOV reported the following information (which is also reported in Document 6).

i. (U//FOUO) SMIRNOV learned from sources, including RUSSIAN OFFICIAL 1, that a particular individual, RUSSIAN OFFICIAL 3, is the representative of the former head of a particular unit of a Russian Intelligence Service, RUSSIAN OFFICIAL 4.

8. (U//FOUO) (Document 8)

a. (U//FOUO) In or about November 2023, SMIRNOV reported the following information:

i. (U//FOUO) In October 2023, SMIRNOV had in-person conversations with RUSSIAN OFFICIAL 1 overseas. During these conversations, RUSSIAN OFFICIAL 1 discussed his knowledge and seeming control of two groups of Russian operatives who were previously tasked with the assassination of a high-ranking official of COUNTRY C. RUSSIAN OFFICIAL 1 offered to stop the assassination efforts in exchange for certain things, including an agreement by COUNTRY C to stop targeting civilian-family-members of certain Russian officials living in Moscow.

ii. (U//FOUO) RUSSIAN OFFICIAL 1 also provided SMIRNOV with specific information about Russia's military resources for a winter attack in COUNTRY C. RUSSIAN OFFICIAL 1 also told SMIRNOV about the Russian government's intentions for their war in Ukraine.

9. (U//FOUO) (Document 9)

a. (U//FOUO) In or about December 2023, SMIRNOV reported the following information:

i. (U//FOUO) SMIRNOV attended a meeting in COUNTRY A in December 2023 that was attended by RUSSIAN OFFICIAL 2, a high-ranking member of a Russian Foreign Intelligence Service. The primary purpose of the meeting was to discuss a potential resolution to the Russia-Ukraine war.

ii. (U//FOUO) On this same trip, SMIRNOV attended another meeting with, among others, RUSSIAN OFFICIAL 1.

iii. (U//FOUO) Unrelated to the above, SMIRNOV had a separate conversation with RUSSIAN OFFICIAL 1, wherein RUSSIAN OFFICIAL 1 claimed that RUSSIAN OFFICIAL 4, the head of a particular unit of a Russian Intelligence Service, ran an intelligence

1 operation at a "club" located on a particular floor
2 of HOTEL 1, which is in COUNTRY C. SMIRNOV stated
3 the Russian Intelligence Service intercepted cell
4 phone calls made by guests at the hotel. The Russian
5 Intelligence Service intercepted several calls
6 placed by prominent US persons the Russian
7 government may use as "kompromat" in the 2024
8 election, depending on who the candidates will be.

iv. (U//FOUO) SMIRNOV later had a meeting with another
COUNTRY C government official, who stated it was
common knowledge that the Russian Intelligence
Service did, in fact, run such intelligence
operations at HOTEL 1.

9 10. (U//FOUO) (Document 10)

a. (U//FOUO) In or about February 2022, SMIRNOV provided the
following information:

i. (U//FOUO) When SMIRNOV was working in COUNTRY D circa
2002, he conducted a joint operation to recruit two
individuals: 1) RUSSIAN OFFICIAL 5, Russian consular
to COUNTRY D, who was caught spying; and, 2) a
COUNTRY E consular to COUNTRY D.

ii. (U//FOUO) SMIRNOV first met RUSSIAN OFFICIAL 5 at an
event/party COUNTRY D put on for foreign officials.
Thereafter, SMIRNOV spent numerous months developing
a "friendship" with RUSSIAN OFFICIAL 5. After some
time, SMIRNOV was asked by COUNTRY D to contact
RUSSIAN OFFICIAL 5 and tell them that COUNTRY D had
info that RUSSIAN OFFICIAL 5 was spying. Rather than
arresting/PNGing RUSSIAN OFFICIAL 5, COUNTRY D told
RUSSIAN OFFICIAL 5 had to leave within 48 hours or
there would be "adverse consequences", but that
RUSSIAN OFFICIAL 5 should keep in touch with COUNTRY
D and SMIRNOV. Thereafter, RUSSIAN OFFICIAL 5 would
occasionally provide SMIRNOV with information.
RUSSIAN OFFICIAL 5 never provided information that
was "adverse" to Russia.

iii. (U//FOUO) Approximately three years before the time
of this reporting, possibly in 2019, SMIRNOV
traveled to Russia and met with RUSSIAN OFFICIAL 5.
They had a very careful, coded conversation about
what Russia might look like under different
leadership. For background, SMIRNOV understood that
RUSSIAN OFFICIAL 5's spouse is somehow related to
RUSSIAN OFFICIAL 6, a former high-ranking member of
a Russian Intelligence Service. SMIRNOV has never
met RUSSIAN OFFICIAL 6, however SMIRNOV once called
RUSSIAN OFFICIAL 5 who was in the car at the time

- 1 with RUSSIAN OFFICIAL 6, who spoke very briefly to
2 SMIRNOV over speaker phone.
- 3 iv. (U//FOUO) During a subsequent meeting two days later,
4 SMIRNOV and RUSSIAN OFFICIAL 5 spoke again about
5 matters pertaining to Russia. RUSSIAN OFFICIAL 5
6 indicated that RUSSIAN OFFICIAL 6 was not happy with
7 Russian leadership, and that RUSSIAN OFFICIAL 6 was
8 also close friends/associates with RUSSIAN OFFICIAL
9 2, a high-ranking member of a Russian Foreign
10 Intelligence Service.
- 11 v. (U//FOUO) First call with RUSSIAN OFFICIAL 2 (High-
12 ranking member of a Russian Foreign Intelligence
13 Service): Prior to a recent overseas trip, SMIRNOV
14 contacted RUSSIAN OFFICIAL 5 to see if he could
15 arrange to have RUSSIAN OFFICIAL 2, speak to a high-
16 ranking official of COUNTRY C. SMIRNOV contacted
17 RUSSIAN OFFICIAL 5 and provided him with a proposed
18 date and time for RUSSIAN OFFICIAL 2 to call.
19 SMIRNOV obtained a "throw-phone" and foreign SIM
20 card and provided RUSSIAN OFFICIAL 5 with the
21 number. SMIRNOV indicated that a call subsequently
22 took place between RUSSIAN OFFICIAL 2 and a high-
23 ranking official COUNTRY C, the subject matter of
24 which SMIRNOV was aware.
- 25 vi. (U//FOUO) Second call with RUSSIAN OFFICIAL 2 (High-
26 ranking member of a Russian Foreign Intelligence
27 Service): In January 2022, SMIRNOV had a second call
28 with RUSSIAN OFFICIAL 2 (SMIRNOV used a second throw
phone). SMIRNOV asked RUSSIAN OFFICIAL 2 for a
"favor"—namely that Russian troops do not hurt
SMIRNOV's associate, an official of COUNTRY C.
RUSSIAN OFFICIAL 2 asked what SMIRNOV thought of
SMIRNOV's associate. SMIRNOV later reiterated his
"ask" that his associate not be harmed during any
Russian incursion. RUSSIAN OFFICIAL 2 said he was
told by RUSSIAN OFFICIAL 5, who SMIRNOV "befriended"
years earlier after RUSSIAN OFFICIAL 5 was caught
spying, that SMIRNOV was a "good guy," and therefore
RUSSIAN OFFICIAL 2 would help to ensure SMIRNOV's
associate was not killed or harmed.
- vii. (U//FOUO) Third call with RUSSIAN OFFICIAL 2 (High-
ranking member of a Russian Foreign Intelligence
Service): After SMIRNOV returned from his overseas
trip, he again asked RUSSIAN OFFICIAL 5 to set up
another call with RUSSIAN OFFICIAL 2. During the
call, SMIRNOV discussed the additional escalation of
Russian troops along the Ukraine border and asked
RUSSIAN OFFICIAL 2 whether he could provide any
details about Russia's intentions. RUSSIAN OFFICIAL

1 2 stated he was 99% that only a skirmish would
2 occur.

3 11. (U//FOUO) (Document 11)

4 a. (U//FOUO) In or about October 2023, SMIRNOV provided the
5 following information:

6 i. (U//FOUO) Photo of passport of RUSSIAN OFFICIAL 1.

7 ii. (U//FOUO) In October 2023, SMIRNOV advised that
8 RUSSIAN OFFICIAL 1, the son of a high-ranking former
9 Russian government official, was invited to attend a
10 birthday party in October 2023 in COUNTRY A, which
11 will be held on RUSSIAN INDIVIDUAL 2's mega yacht.
12 SMIRNOV received a copy of RUSSIAN OFFICIAL 1's
13 Russian passport.

14 Smirnov's anticipated travel from the United States, on Friday
15 of last week, two days after his return, was for the purpose of meeting
16 with Russian intelligence officials, among others. Specifically:

17 12. (U//FOUO) (Document 12)

18 a. (U//FOUO) In or about January 2024, SMIRNOV provided the
19 following information. The information was recorded in an
20 FD-1040a, CHS travel/ET Activity Request Form.

21 i. SMIRNOV reported future travel and meeting
22 itineraries to his FBI Handler, which outlined
23 travel to various countries in February 2024.
24 SMIRNOV planned to meet with RUSSIAN OFFICIAL 1, an
25 operative of a Russian Intelligence Service. The
26 primary purpose of the meeting with RUSSIAN OFFICIAL
27 1 was to discuss the exchange of Russian and
28 Ukrainian military prisoners. The meeting was set to
 occur in COUNTRY A.

 Smirnov's contacts with Russian officials who are affiliated with
Russian intelligence services are not benign. At his meeting with FBI
investigators in September 2023, Smirnov pushed a new story about
Public Official 1 and Businessperson 1, as described in the indictment.
Indictment at ¶51. Specifically, Smirnov wanted them to look into
whether Businessperson 1 was recorded in a hotel in Kiev called the
Premier Palace. *Id.* Smirnov told investigators that the entire
Premier Palace Hotel is "wired" and under the control of the Russians.

1 *Id.* Smirnov claimed that Businessperson 1 went to the hotel many times
2 and that he had seen video footage of Businessperson 1 entering the
3 Premier Palace Hotel. *Id.* Investigators know that Smirnov's new story
4 is false because Businessperson 1 has never travelled to Ukraine. *Id.*
5 at ¶ 54.

6 Smirnov suggested that investigators check to see if
7 Businessperson 1 made telephone calls from the Premier Palace Hotel
8 since those calls would have been recorded by the Russians. *Id.* at ¶
9 52. Smirnov claimed to have obtained this information a month earlier
10 by calling a high-level official in a foreign country. *Id.* Smirnov
11 also claimed to have learned this information from four different
12 Russian officials. *Id.*

13 Smirnov told investigators that the four different Russian
14 officials are all top officials and two are the heads of the entities
15 they represent. *Id.* at ¶ 53. These Russians said that conversations
16 with Ukrainians about ending the war will include the next U.S.
17 election. Smirnov told investigators he is involved in negotiations
18 over ending the war and had been for the previous four months. *Id.*
19 According to Smirnov, the Russians want Ukraine to assist in
20 influencing the U.S. election, and Smirnov thinks the tapes of
21 Businessperson 1 at the Premier Palace Hotel is all they have. *Id.*
22 Smirnov told investigators he wants them to ask Businessperson 1 how
23 many times he visited and what he did while at the Premier Palace
24 Hotel. *Id.*

25 Thus, Smirnov's efforts to spread misinformation about a
26 candidate of one of the two major parties in the United States
27 continues. The Court should consider this conduct as well when
28 evaluating his personal history and characteristics. What this shows

1 is that the misinformation he is spreading is not confined to 2020.
2 He is actively peddling new lies that could impact U.S. elections
3 after meeting with Russian intelligence officials in November. In
4 light of that fact there is a serious risk he will flee in order to
5 avoid accountability for his actions.

6 2. Smirnov has access to millions of dollars that he did not
7 disclose to Pretrial Services.

8 Smirnov has already demonstrated that he cannot be trusted to
9 provide truthful information to Pretrial Services. When he was
10 interviewed, he told Pretrial Services that he only had access to
11 \$1,500 in cash and another \$5,000 in a checking account. See Exhibit
12 11 at 2.

13 That is not true. Smirnov is the sole signatory on a Bank of
14 America business checking account ending with 3928 in the name of
15 Avalon Group Inc. (hereafter "BOA 3928") Exhibit 3 (under seal). As
16 *of December 31, 2023, BOA 3928 had a balance of \$2,917,496.61.* Exhibit
17 4 (under seal). The fact that Smirnov lied to Pretrial Services in
18 his very first interaction with them establishes conclusively that
19 there are no conditions that could reasonably assure his appearance.
20 That is because the effectiveness of any condition or combination
21 relies on Pretrial Services ability to obtain truthful information
22 from Smirnov.

23 Smirnov uses BOA 3928 to fund his and DL's lifestyle, although
24 the transfers themselves look like payments from a business, "Avalon
25 Group, Inc." to DL. From February 2020, when the account was opened,
26 through December 31, 2022, Smirnov withdrew \$1,737,500 to purchase
27 cashier's checks in the name of "Avalon Group Inc." and payable to DL.
28 *Id.* Those cashier's checks were then deposited in DL's account, in

1 some cases within 30 minutes of Smirnov withdrawing the funds to
2 purchase the checks. See Exhibit 10 (under seal). DL deposited these
3 cashier's checks into one of her accounts at a branch near where
4 Smirnov withdrew the funds. *Id.* For example, on October 13, 2020, a
5 withdrawal was conducted by Avalon Group Inc. in the amount of \$599,000
6 from BOA 3928. Exhibit 5 (under seal). The transaction was conducted
7 at a Bank of America branch located in San Juan Capistrano, California.
8 *Id.* A handwritten note on the withdrawal slip identified "CADL XXXX349
9 4/26/2022," which was Smirnov's California driver's license. *Id.*
10 Immediately following the withdrawal, Bank of America official check
11 1145711247 in the amount of \$599,000 payable to DL was purchased using
12 the funds. Exhibit 6 (under seal). On October 14, 2020, Bank of
13 America official check 1145711247 was deposited to DL's Wells Fargo
14 account ending 1356, for which she is the sole signer. *Id.* The
15 transaction was conducted at a Wells Fargo branch located in San Juan
16 Capistrano, California. *Id.* The withdrawal from BOA 3928 was funded
17 by a previous wire transfer of \$600,000 received from Economic
18 Transformation Technologies Corporation on September 22, 2020. The
19 BOA 3928 account balance prior to receipt of the wire transfer was
20 approximately \$31.

21 Smirnov also wired DL \$785,000 in two payments, \$740,000 at the
22 end of 2020 and another \$45,000 at the end of 2022. Exhibit 4 (under
23 seal).

24 *As of February 1, 2024, DL had \$3,827,460 in her Wells Fargo*
25 *account ending in 1356. Exhibit 7 (under seal).*

26 In 2022 and 2023, after Smirnov began making these substantial
27 transfers to DL, albeit using cashier's checks that make it appear she
28 is receiving the funds from a business, "Avalon Group Inc.," DL made

1 payments to Smirnov's Citi credit card, which is the primary means by
2 which he pays personal expenses. See Exhibit 10 (under seal).
3 Specifically, in 2022, DL paid \$108,916.52 towards Smirnov's Citi
4 credit card debt and in 2023, she paid \$275,869.44. *Id.*

5 Smirnov told Pretrial Services that he lives with DL in a
6 condominium she leases. See Exhibit 11 at 1. That is also not true.
7 The attached report shows she is in fact the owner, having purchased
8 it on February 28, 2022, for the sale price of \$1,425,000. See Exhibit
9 1 (under seal). In February 2022, DL purchased a condominium in Las
10 Vegas where she and Smirnov reside. *Id.* While the condominium is
11 titled in her name, she purchased it after receiving more than \$2.4
12 million from Smirnov. See Exhibit 10 (under seal).

13 Smirnov also withdrew \$174,219 in cash from the account, including
14 \$60,304.25 in 2023. Exhibit 4 (under seal). In addition to DL paying
15 his personal expenses, Smirnov also pays various personal expenses out
16 of this account including gasoline, credit card payments, restaurants,
17 duty free shopping and others. *Id.*

18 The government assumes that Smirnov did not disclose these
19 substantial assets to the Court when he submitted his financial
20 affidavit. That is because while the government has not seen the
21 affidavit, the Court appointed the Office of the Federal Public
22 Defender to represent Smirnov at his initial appearance. The court
23 specifically admonished Smirnov that he was submitting his financial
24 affidavit under the penalties of perjury. If he did not disclose his
25 substantial assets the this is a second example of an instance where
26 Smirnov lied to the Court.

27 In the event that Smirnov did not disclose these assets, the
28 government respectfully requests that the Court release the affidavit

1 to the government so that the government can consider whether to charge
2 Smirnov with perjury.

3 3. Smirnov can obtain an Israeli passport at any time.

4 Finally, the Court should also consider that Smirnov is a dual
5 national who holds both U.S. citizenship, and a U.S. passport, and
6 Israeli citizenship, and an Israeli passport. While Smirnov can be
7 ordered to turn both passports in to Pretrial Services and could be
8 prohibited from obtaining a new U.S. passport, he cannot be prohibited
9 from obtaining a new Israeli one. He can obtain a new Israeli passport
10 in the United States by visiting any one of Israel's consulates in
11 Washington, DC, New York, Houston, Miami or Los Angeles. See Exhibits
12 8 and 9.

13 V. Conclusion

14 Based on the above, this Court should conclude that no condition
15 or combination of conditions will reasonably assure the appearance of
16 the Smirnov as required and order him detained pending trial.
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