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Judge Paige Gillman

November 2, 2021

The Honorable Paige Gilman
Judge, Circuit Court
15th Judicial Circuit
205 North Dixie Highway
West Palm Beach, Florida 33401

BY EMAIL: CAD-DivisionAK@pbcgov.org

Re: *Alfa Bank v. John Doe, et. al.*, Civil Action No. 50-2020-CA-006304-XXXX-MB

Dear Judge Gilman:

We are attorneys who represent cybersecurity researchers, technology companies, journalists and others who have been targeted for third party document and testimonial discovery in relation to the allegations in the above referenced *ex parte* Complaint by Alfa Bank, a Russia-based bank with reported ties to the Russian government, concerning Internet records which showed a connection between the Bank and computer servers affiliated with Donald J. Trump or related organizations. None of our clients are parties to this case, none have submitted to the jurisdiction of this court, and we are aware of no contacts which would subject them to the jurisdiction of this Court. Indeed, counsel for Alfa Bank has affirmatively represented to at least one Court that at least one of the researchers is not the target of the conduct referenced in the Complaint. But our clients, along with numerous others, have been injured by the inappropriate and unrestricted discovery campaign Alfa Bank (“the Bank”) has been conducting in the name of this Court for over a year, despite the absence of any identified defendant. As a friend of the Court, we wish to bring certain facts about how discovery is being conducted in the name of this tribunal. A Zoom hearing on the Bank’s motion to extend – for a fourth time – the time to identify and serve the John Doe actors is currently set for Wednesday, November 3, 2021 at 8:45 a.m.

Background

Sixteen months ago, the Bank filed a “John Doe” lawsuit in this court alleging that cyber attackers engaged in a sophisticated disinformation campaign against Alfa Bank that “aimed at improperly linking Alfa Bank to President Trump’s electoral campaign,” and “fraudulently manufactured and manipulated the [Internet’s] Domain Name System (“DNS”) resolution process ... to create the false appearance of a covert communication channel between Alfa Bank and the Trump Organization.” The complaint further alleges that a “series of up to 100 or more separate but related attacks” “interfered with and deprived Alfa Bank of its exclusive use and control of its servers.”

Experts in cybersecurity are of the opinion that the claims in the Alfa Bank complaint are fanciful; the DNS system – the “address book” of the Internet – cannot be manipulated in the way that Alfa Bank describes and communications cannot be “fabricated,” “fraudulently manufactured and manipulated” or “spoofed” as the complaint suggests,¹ and Alfa Bank’s servers or data were never interfered with as alleged.²

Under the guise of purportedly trying to identify the John Doe actors who caused supposed damage to Alfa Bank, the complaint actually is a harassment tool permitting Alfa Bank to intimidate researchers who opined on the significance of the apparent connections between the Bank and Mr. Trump. The complaint is a Trojan horse to monitor what is transpiring before a federal grand jury exploring the same matters, and serves as an information-gathering tool about U.S. cybersecurity methods and means to benefit the Russian political regime. For reasons identified in various pleadings, this unchecked process has violated Florida procedures requiring specific approvals for such discovery, particularly since John Doe suits fail to initiate an action.³ Alfa Bank has taken unfair advantage of the American civil litigation process to issue over 49 subpoenas and 27 deposition requests—it has no incentive to wrap this up or name an actual defendant given the unchecked latitude it enjoys. The longer Alfa Bank is permitted to pursue this action without being forced to name and serve an actual defendant, the longer they are able to abuse the judicial process and discovery powers of this Court.

¹ One respected article notes, “[s]poofing today is rare.” See, e.g., Wei, et al., “Whac-A-Mole: Six Years of DNS Spoofing”, <https://www.isi.edu/~johnh/PAPERS/Wei20c.pdf>. After 2008, off-path guessing attacks (i.e., from non-governmental attackers) are impractical. A statistical model of how much time a single successful attack would take shows it would take days and weeks of non-stop attacking at high rates, just to successfully spoof a single DNS packet, let alone the thousands of packets alleged by Alfa Bank. After 2008, DNS off-path spoofing became essentially impossible for a single packet. Dagon, et al., “Recursive DNS Architectures and Vulnerability Implications” at Figure 6, https://www.academia.edu/569127/Recursive_dns_architectures_and_vulnerability_implications.

This is because there are technical standards and recommendations, universally employed by all major DNS vendors, that make off-path DNS spoofing infeasible, for even a single query. See A. Hubert, et al., “Measures for Making DNS More Resilient against Forged Answers”, <https://tools.ietf.org/html/rfc5452>. In section 8 of this technical discussion, the authors note that the resources required for a single attack are considerable. With measures commonly used in all major DNS software offerings, such attacks are not feasible:

If that port number is unknown and needs to be guessed as well, the problem space expands by a factor of 64000, leading the attacker to need in excess of 285Gb/s to achieve similar success rates.

Such bandwidth is not generally available, nor is it expected to be so in the foreseeable future.

<https://datatracker.ietf.org/doc/html/rfc5452#section-8>

In fact, even the cyber forensics experts retained by Alfa Bank concluded that the DNS records showing a connection between the Trump Organization and Alfa Bank in 2016 were, in fact, accurate but posited inconsistent explanations for the traffic.

² The researcher’s findings involved no data from Alfa Bank servers; their findings were based on third party DNS data and have been validated and are reproducible. Alfa Bank hired forensic investigation firms to investigate its claims but did not allow them full access to Alfa Bank logs and server data.

³ See *Liebman v. Miami-Dade Cnty. Code Compliance Off.*, 54 So. 3d 1043, 1044 (Fla. 3d Dist. Ct. App. 2011); *Gilliam v. Smart*, 809 So. 2d 905, 908 (Fla. 1st Dist. Ct. App. 2002); *Grantham v. Blount, Inc.*, 683 So. 2d 538 (Fla. Dist. Ct. App. 1996).

Alfa Bank's Fourth Motion for Extension of Time

We understand that, pursuant to Fla. R. Civ. P. 1.070 (j), Alfa Bank's counsel has filed a motion for a *fourth* extension of time in which to unmask and serve the hypothetical "John Doe" defendants. We are writing to the Court because, in the absence of the appearance of a "John Doe," there is no entity capable of bringing the serious concerns of our clients (the subjects of third-party discovery) in this case to the attention of the Court.

Courts in many other jurisdictions have required a heightened standard of proof as a pre-condition for obtaining discovery in cases like the one at bar, where there is no named and served defendant. In this regard, we direct the Court to *Columbia Ins. Co. v. Seescandy.com*, 185 F.R.D. 573, 579 (N.D. Cal. 1999) which noted that:

Thus some limiting principals should apply to the determination of whether discovery to uncover the identity of a defendant is warranted. The following safeguards will ensure that this unusual procedure will only be employed in cases where the plaintiff has in good faith exhausted traditional avenues for identifying a civil defendant pre-service, and will prevent use of this method to harass or intimidate.⁴

The *Seescandy* court established a three-part test for determining whether a party should be permitted to obtain *ex parte* discovery to name John Does:

1. The plaintiff must identify the John Doe "with sufficient specificity" such that the court can determine that the defendant is a real person or entity who could be sued;
2. The party should identify all previous steps taken to locate the "elusive defendant;" and
3. Most significantly, "the plaintiff should establish to the court's satisfaction that the plaintiff's suit against the defendant could withstand a motion to dismiss" and noted that "a conclusory pleading will never be sufficient to satisfy this element."

Accord, Dendrite Int'l, Inc. v. Doe No. 3, 775 A.2d 756, 760-61 (N.J. Super. Ct. App. Div. 2001); *In re Indiana Newspapers, Inc.*, 963 N.E.2d 534, 546 (Ind. Ct. App. 2012).

Per its own submission to this Court, in the past year and a half, Alfa Bank has "issued over 45 subpoenas for document production and 23 subpoenas for depositions to individuals and entities located in fifteen different jurisdictions in the United States." (Alfa Motion, Par. 9). Indeed, since that filing on October 18, 2021, Alfa Bank has issued or reissued subpoenas for deposition to four additional persons or entities, and subpoenas to produce documents to four additional persons or entities.⁵ Those who have been subjected to discovery in this case include Russian politicians, technology providers, data security companies, political campaigns, U.S.

⁴ *Columbia Ins. Co. v. Seescandy.com*, 185 F.R.D. 573, 578 (N.D. Cal. 1999).

⁵ These include, depositions to Jacob S. Berkowitz of Washington, D.C. (Dkt. No. 121), former Wall Street Journal reporter Glenn Simpson (Dkt. No. 123), Timothy "Tim" Cody of Charlotte, North Carolina (Dkt. No. 126), and Tempe, Arizona based IT company Centergate Research Group, LLC (Dkt No. 128) as well as subpoenas duces tecum to each of these entities.

Senate staffers, academic security researchers, academic institutions, Internet providers, telecom companies, several long-time critics of the Putin regime, nonprofit research and political organizations and others, including several of our clients.⁶

Alfa Bank has done all that without seeking to comply with the heightened standard for seeking discovery against anonymous defendants, despite the fact that a trial court in Indiana quashed its subpoena against Professor Camp for failing to comply with that standard.

This extensive discovery has brought Alfa Bank no closer to naming the John Does, or they would not be requesting yet another extension of time. While the subpoenas have identified no actual defendants – and there is no reason to believe they exist – the Bank’s “scorched earth” discovery strategy has resulted in numerous cybersecurity researchers being forced to hire lawyers to fend off this litigation. In addition, Alfa Bank’s true purpose of this discovery is to learn how these researchers discovered the connection between Trump and Alfa Bank in 2016, how they exposed it, and with whom they communicated. Any such information in this regard would likely be directly communicated to the Bank, its oligarch owners, and likely the Russian government.

In the ordinary case, a Plaintiff demonstrates “good cause” for an extension for service by demonstrating that they have been diligent in pursuing their case.⁷ In this case, Alfa Bank has used the fact that the defendants are unnamed – and remain unnamed after more than 16 months – to aggressively pursue critics of the Bank and subject them to harassing and vexatious litigation, which has impacted their lives, their reputations, their positions of employment, and imposed significant financial and mental strain on them.

By way of illustration, we note that one of our clients (an academic researcher at the Georgia Institute of Technology who is not a party to this case) has received a list of 176 questions which

⁶ See, e.g., Docket Sheet, *AO Alfa Bank v. John Doe*:

- **Technology/Security companies**, including OARC, Inc.; Intermap; Packet Forensics; Vostrom Holding, Neustar, Layer Aleph LLC; Zetalytics; Go Daddy; BroadbandOne; Cendyn; Dynamic Network Services Listrak; Verizon; Domo; CT Corporation System; Rodney Jaffe; Raymond Saulino (Tidewater Laskin Associates);
- **Academic Researchers**: Manos Antonakakis (Georgia Tech), L. Jean Camp (Indiana University); Matt Blaze (Georgetown University); Nicholas Feamster (Princeton University); Steven M. Bellovin (Columbia University); Randy Bush (Internet Initiative Japan); Nicholas Weaver (University of California, Berkeley); David Schiminovich (Columbia University); Sameer Bhalotra (Center for Strategic and International Studies); “Mickey” Dickerson (University of Maryland); David Dagon (Georgia Tech)
- **Journalists**: Scot Terban; (Blogs of War); Glenn Simpson (formerly Wall Street Journal); Daniel Kahn Gillmor (Arizona State University .Walter Cronkite school).
- **Russia Critics and Think Tanks**: Nellie Ohr, Glenn Simpson; Laura Seago ,Fusion GPS, Democracy Integrity Project; Daniel Jones (former U.S. Senate Staff); Penn Quarter; Daniel Kahn Gillmor (ACLU Speech, Privacy and Technology Project); Ilya Zaslavskiy (Russian Politician).
- **U.S. Government Personnel**: Thomas K. McConnell (Staff, United States Senate).
- **Other Data Scientist**: Paul Vixie; April Lorenzen.
- **Other Persons/Organizations**: Spectrum Health; the Trump Organization; Donald J Trump for President, Inc.; Heartland Payment Systems;
- **Attorney/Law Firm**: Michael Sussmann.

⁷ *Kozel v. Ostendorf*, 629 So.2d 817, 818 (1993).

Alfa Bank seeks him to answer, before this civil case is even initiated, as well as a demand for production of a wide variety of documents.⁸ The questions were received in lieu of a deposition and are attached hereto as Exhibit 1. Of the 176 questions, only three directly address the issue which would be permitted to be addressed at this stage of the proceedings – the identities of the John Doe defendants who, as alleged in Alfa’s Compliant, manipulated DNS data.⁹ The remainder of the questions go far beyond the purview of identifying any defendants who may have masterminded this impossible scheme. Another of our clients, a professor at Indiana University who is likewise not a party to this case, was asked to turn over all communications relating in any way to Trump or Russia, including all communications with her attorneys.

The permissible scope and extent of discovery is being litigated by our clients and other litigants in each of the forums in which discovery is being sought by Alfa Bank, including in Washington, D.C.,¹⁰ Maryland,¹¹ Utah,¹² Indiana,¹³ Rhode Island,¹⁴ and Virginia.¹⁵ Alfa Bank’s aggressive litigation strategy on this matter is similarly being litigated in other forums.¹⁶ It does not appear that this Court has been formally advised of how the instant case is being used to conduct discovery, the harassment Alfa Bank is engaged in under the purported authority of this Court, and why a fourth extension of time for additional discovery should not be granted.

This is an abuse of the legal system and Alfa Bank’s request is not made in good faith. Indeed, Alfa Bank is already proceeding as if this Court’s decision on its fourth extension of time is a foregone conclusion. For example, Alfa Bank noticed a deposition for another Georgia Tech researcher on October 5, 2021, Docket number 113, and also issued a subpoena *duces tecum*, Docket number 112, but set the response date for November 18, 2021 – two weeks after its third extension of time to November 4, 2021 expired. Glenn Simpson was noticed for a deposition on October 18, 2021, Docket number 123, with the deposition scheduled on Tuesday, January 18, 2021 [sic], which was surely intended to be Tuesday, January 18, 2022. On October 18, Docket number 121, Alfa Bank noticed the deposition of Jacob Berkowitz, with the deposition for Tuesday, January 11, 2021 [sic], surely intending it to state Tuesday, January 11, 2022. And it has noticed the deposition of Jean Camp for a date not yet scheduled, but after November 5,

⁸ The existence or non-existence of which Mr. Dagon refuses to acknowledge under the principles espoused in *United States v. Hubbell*, 530 U.S. 27 (2000).

⁹ Question 16(b) asks: b) To the best of your knowledge, did you or anyone else manipulate the data to support the server allegations? i) If yes, describe the process and the individuals involved.

d) To the best of your knowledge, did you or anyone else fabricate the DNS lookups between the Alfa Bank and Trump Organization servers?

¹⁰ AO Alfa Bank v. Doe, No. 2020 CA 03458 2 (D.C. Super. Ct. August 13, 2021).

¹¹ AO Alfa Bank v. John Doe, No. 483414-V (Mont. Co. Cir. Ct, MD, July 22, 2021).

¹² AO Alfa Bank v. Doe, Dkt. No. 200100208 (4th District Court, Utah, 2021).

¹³ AO Alfa Bank v. Doe, 171 N.E. 3d 1018, 1023 (Ind. Ct. App. 2021).

¹⁴ AO Alfa Bank v. Doe, Dkt. No. WM-2020-0361 (Superior Court, Washington County, Rhode Island) 2021.

¹⁵ AO Alfa Bank v. Doe, Civil Action CM-2021-513 (Circuit Court, Fairfax County Virginia) 2021.

¹⁶ See, e.g., *Fridman v. BuzzFeed, Inc.*, No. 154895/2017, 2021 WL 1040531 (N.Y. Sup. Ct. Mar. 11, 2021)(dismissing as privileged journalists’ reporting on Trump/Alfa connection arising from the so-called “Steele dossier”); *Khan v. Orbis Business Intelligence Ltd.*, No. 2018 CA 002667 B, 2018 WL 11232420, at *1 (D.C. Super. Aug. 20, 2018)(dismissing, under the D.C. Anti SLAPP statute, defamation claims made by Alfa Bank founders against Christopher Steele in connection with his research into the Trump/Alfa connection, and finding the Steele research protected by the First Amendment and a matter of public concern; *Fridman v. Bean, LLC* (a/k/a Fusion GPS), Dkt. No. 1:17-cv-02041-RJL, 2021 WL 3075460 (D.D.C.)(defendant’s asserting there that Alfa Bank is using discovery in this Florida case to circumvent the discovery rules in the Federal District Court).

2021. The same is true for the recently noticed depositions of Jacob S. Berkowitz, Glenn Simpson, "Tim" Cody and Centergate Research Group. The fact that these depositions are scheduled after the Plaintiff is required to serve the John Does under its third extension of time is evidence of the fact Alfa Bank presumes a continued ability to do what they want with no consequence or oversight.


In a little less than a year and a half, Alfa Bank appears no closer to identifying these mysterious John Does. Plaintiff notes that they have "made significant strides in identifying [the John Doe] Defendants" because they have "uncovered the identities of several of the anonymous parties described in the Complaint" (Motion, Par. 12). These anonymous parties are the security researchers who discovered the Internet data showing the connection between Alfa Bank and the Trump Organization. But there is no suggestion made that any of these individuals have any information whatsoever about the identity or indeed the existence of the John Doe actors.

What is needed here is not more time for more discovery or depositions, or questions to third parties, or more subpoenas duces tecum. After nearly a year and a half, these professors, researchers, academics, journalists and others have a right to simply be left alone, and not be inundated with discovery demands, be required to retain counsel, file motions for protective orders or seek other relief from abusive discovery at great personal expense to them or to their respective institutions. We suggest that the correct approach is not to extend the time for discovery of third parties, and not to permit or allow an expansion of discovery, but to recognize that no good cause exists for Alfa Bank to not have named these John Does by now, and to deny the motion for a fourth extension of time.

Pursuant to Local Rule 11. XVI, a copy of this letter is being filed electronically with the Clerk of the Court and we are providing copies to all identified counsel.

Yours truly,


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Exhibit 1: Alfa Bank Questions to David Dagon

cc: Counsel for Alfa Bank

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EXHIBIT 1

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1) Describe your academic credentials and area(s) of expertise.

Response:

2) Describe your experience working with DNS data.

Response:

a) Describe any access you had to DNS data sources in 2016 or 2017 and the nature of your access.

Response:

i) Did you have access to a DNS collection system referred to as "Thales" in 2016 and 2017?

Response:

(1) If yes, describe to the best of your knowledge how Thales collected data, including but not limited to the frequency of the capture, the completeness of the capture (e.g. whether every DNS inquiry that passes through its sensors is recorded), and the scope of its visibility (e.g. the observation points it reviews and the relative amount of global DNS traffic it is able to observe).

Response:

3) Describe how you first became aware of the server allegations.

Response:

4) Describe your familiarity with Alfa Bank, including how you became aware of Alfa Bank in the context of the server allegations.

Response:

5) Describe your relationship, if any, with the following individuals and entities:

a) April Lorenzen

Response:

b) Rodney Joffe

Response:

c) Manos Antonakakis

Response:

d) L. Jean Camp

Response:

e) Neustar

Response:

f) Packet Forensics

Response:

g) Zetalytics

Response:

h) Damballa Inc.

Response:

i) Mickey Dickerson

Response:

j) Matt Weaver

Response:

k) Layer Aleph

Response:

l) Sameer Bhalotra

Response:

m) Richard Clayton

Response:

n) Randy Bush

Response:

o) David Schmininovich

Response:

p) Paul Vixie

Response:

q) Nicholas Weaver

Response:

r) Daniel Jones

Response:

s) The Democracy Integrity Project

Response:

t) Fusion GPS

Response:

u) Glenn Simpson

Response:

v) Peter Fritch

Response:

w) Jake Berkowitz

Response:

x) Laura Seago

Response:

y) Perkins Coie

Response:

z) Michael Sussman

Response:

aa) Marc Elias

Response:

6) To the best of your knowledge, how, if at all, did each of the individuals and entities described in Question 5 become involved with the review and research of the server allegations?

Response:

7) Did you consider any of the individuals described in Question 5 to be DNS experts?

Response:

8) Did you have a contractual relationship with any of the individuals or entities described in Question 5 in 2016 or 2017?

Response:

a) If yes, describe the purpose of the contract, its parties, and its relevant provisions.

Response:

9) Other than the individuals described in Question 5, are you aware of anyone else who reviewed or searched information or data related to the server allegations?

Response:

a) If yes, who?

Response:

b) Describe their work.

Response:

10) Describe your familiarity with Michael Sussmann and how this familiarity, if any, came about.

Response:

a) Describe which individuals or entities, if any, you understood Mr. Sussmann to be representing in a legal capacity in 2016.

Response:

b) We are aware of at least one voicemail that you left Mr. Sussmann.

i) How frequently did you communicate with Mr. Sussmann?

Response:

ii) Who else did you communicate with at Perkins Coie?

Response:

iii) Did you communicate with Mr. Sussmann about the server allegations?

Response:

iv) Did you communicate with anyone else at Perkins Coie about the server allegations?

Response:

v) Did you communicate with Mr. Sussmann about Alfa Bank?

Response:

vi) Did you communicate with anyone else at Perkins Coie about Alfa Bank?

Response:

11) Describe your familiarity with Fusion GPS and how such familiarity, if any, came about.

Response:

a) Did you communicate with employees of Fusion GPS, including Glenn Simpson and Peter Fritsch?

Response:

i) If yes, how frequently did you communicate with employees of Fusion GPS?

Response:

ii) If yes, with whom at Fusion GPS did you communicate?

Response:

b) Did you communicate with Mr. Simpson, Mr. Fritsch, or others at Fusion GPS about the server allegations?

Response:

c) Did you communicate with Mr. Simpson, Mr. Fritsch, or others at Fusion GPS about Alfa Bank?

Response:

12) Describe any communications you had with anyone regarding the server allegations or Alfa Bank, including but not limited to:

- a) the contents of those communications;
- b) the approximate date of those communications; and
- c) all parties with whom they occurred.

Response:

13) Describe any documents or materials you received from anyone regarding the server allegations or Alfa Bank, including but not limited to:

- a) the contents of those materials;
- b) the approximate date of receipt;

- c) the individual or entity who provided the materials, and
- d) any other recipients of the materials, to the best of your knowledge.

Response:

14) Describe your understanding of how the alleged server look ups between Alfa Bank and the Trump Organization were discovered.

Response:

15) Describe how you first obtained data purporting to support the server allegations.

Response:

16) Describe your understanding of how data regarding the server allegations was collected.

Response:

- a) To the best of your knowledge, was data relating to Alfa Bank or individuals purportedly associated with Alfa Bank specifically searched for within the data set?

Response:

- b) To the best of your knowledge, did you or anyone else manipulate the data to support the server allegations?

Response:

- i) If yes, describe the process and the individuals involved.

Response:

- c) To the best of your knowledge, did you or anyone else selectively sift or edit the data?

Response:

- i) If yes, describe the process and the individuals involved.

Response:

- d) To the best of your knowledge, did you or anyone else fabricate the DNS lookups between the Alfa Bank and Trump Organization servers?

Response:

17) Did you receive different sets of data?

Response:

a) If yes, describe:

- i) the difference in the data sets;
- ii) from whom you obtained each data set;
- iii) the approximate dates on which you received each data set;
- iv) the collection sources (*e.g.* systems or databases) of the different datasets; and
- v) your understanding as to why you received different data sets.

Response:

18) Do you know of anyone who reviewed datasets that were different than the set(s) you reviewed?

Response:

a) If yes, who?

Response:

b) To the best of your knowledge, how were these sets different?

Response:

19) Did you provide data regarding the server allegations to anyone?

Response:

i) If yes, who?

Response:

ii) What was the purpose of providing the data?

Response:

iii) To the best of your knowledge, what was their reaction to the data?

Response:

20) Describe your impression of the server data you reviewed.

Response:

21) Did you review logs posted by an individual known as Tea Leaves?

Response:

a) If yes, describe how you learned the post.

Response:

b) If yes, describe your impression of the conclusions drawn by Tea Leaves.

Response:

22) On September 16, the Department of Justice issued an indictment accusing Michael Sussmann of making false statements in connection with data and documents he provided to the FBI, allegedly on behalf of a tech-executive client, the DNC and the Clinton Campaign. See Indictment, *U.S. v. Michael A. Sussmann*, No. 1:21-cr-00582-CRC (D.D.C. Sept. 19, 2021). The indictment referenced generically various individuals, including Tech Executive-1; Originator-1; Researcher-1; and Researcher-2.

a) The *New York Times* subsequently identified Tech Executive-1 as Rodney Joffe; April Lorenzen as Originator-1; Manos Antonakakis as Researcher-1, and you as Researcher-2. See Charlie Savage and Adam Goldman, "Trump Server Mystery Produces Fresh Conflict," *NY Times* (Sept. 30, 2021). Do you have any reason to doubt that those identifications are accurate?

Response:

b) The indictment also describes Internet Companies 2 and 3. See Indictment, *U.S. v. Michael A. Sussmann*, No. 1:21-cr-00582-CRC (D.D.C. Sept. 19, 2021) at ¶ 22.

i) Do you know the identities of these companies?

Response:

ii) Do you understand one of the companies to be Damballa?

Response:

- (1) If you know the identities of the companies, describe your interaction with these companies, including any ownership stake or formal position you hold—or held in 2016 and 2017—and any work you have completed for these companies.

Response:

- c) The indictment alleged that Mr. Sussmann provided three white papers to the FBI: “White Paper #1 Auditable V3;” “White Paper Comments: Time Series Analysis of Recursive Queries;” and a white paper drafted by an investigative firm regarding Alfa Bank. *See id.* at ¶ 27(f).

- i) Describe your familiarity, if at all, with these white papers.

Response:

- ii) The indictment states that the “White Paper #1 Audible V3” was drafted in part by Mr. Sussmann. *See id.*

- (1) Were you aware that Mr. Sussmann drafted this white paper?

Response:

- (2) To the best of your knowledge, who else contributed to the white paper?

Response:

- (3) To the best of your knowledge, what was the purpose of this document?

Response:

- iii) The indictment states that “White Paper Comments: Time Series Analysis of Recursive Queries” was drafted by you. *See id.*

- (1) Is this accurate?

Response:

- (2) How did it come about that you drafted this document?

Response:

- (3) What was the purpose of the document?

Response:

(4) Who else contributed to the document?

Response:

(5) Who, to the best of your knowledge, was this document provided to?

Response:

iv) To the best of your knowledge, how did it come about that the white paper on Alfa Bank was drafted?

Response:

(1) To the best of your knowledge, who contributed to the document?

Response:

(2) To the best of your knowledge, what was the purpose of the document?

Response:

(3) Are you aware that the author of this document has been identified as Fusion GPS?

Response:

d) Describe any shortcoming you became aware of regarding the white papers' conclusions.

Response:

i) Describe any subsequent actions you took as a result.

Response:

ii) Did you discuss these shortcomings with anyone else? If yes, describe their reaction.

Response:

iii) Did these shortcomings affect your view of the validity of the server allegations?
Why or why not?

Response:

iv) As a scientist, when you discover a shortcoming to a theory you are writing about, do you address these shortcomings in your paper as a matter of normal course?

Response:

23) Did anyone raise with you any potential shortcomings regarding the data supporting, or the conclusions regarding, the server allegations?

Response:

a) If yes, who? Describe these communications.

Response:

i) Did this interaction affect your view of the validity of the server allegations? Why or why not?

Response:

24) Did you become aware of criticisms regarding the server allegations and supporting data proffered by journalists or other computer scientists?

Response:

i) If yes, describe the commentary of which you were aware and how it affected your view of the validity of the server allegations, if at all.

Response:

ii) Were you able to debunk all of the criticisms or alternative explanations regarding the server data, of which you became aware? Why or why not?

Response:

25) It has been alleged and reported that the white papers were provided to the FBI, along with several data files, at the request of Mr. Joffe and others at the DNC and Clinton Campaign. See Indictment, *U.S. v. Michael A. Sussmann*, No. 1:21-cr-00582-CRC (D.D.C. Sept. 19,

2021); Charlie Savage and Adam Goldman, "Trump Server Mystery Produces Fresh Conflict," *NY Times* (Sept. 30, 2021);

- a) To the best of your knowledge, was the data that was provided to the FBI different in any way from the data you originally obtained and/or reviewed in connection with the server allegations?

Response:

- i) If so, how?

Response:

- ii) To the best of your knowledge, what was the reason for the difference?

Response:

- 26) Were you aware in 2016 that Mr. Joffe was discussing the server allegations with representatives of the Clinton Campaign or the DNC?

Response:

- a) If yes, describe your reaction to this communication.

Response:

- b) To the best of your knowledge, did you or others specifically hide shortcomings in the data or server allegation conclusions when sharing materials or information with others, including with law enforcement, the media, or other researchers?

Response:

- i) If yes, describe the process and the individuals involved.

Response:

- c) Describe any communication you had with representatives of the Clinton Campaign or the DNC about the server allegations.

Response:

- d) Describe any communication you had with representatives of the Clinton Campaign or the DNS about Alfa Bank.

Response:

27) The indictment also states that Mr. Joffe wrote to you in an email that “being able to provide evidence of *anything* that shows an attempt to behave badly in relation to this, the VIPs would be happy.” Indictment, *U.S. v. Michael A. Sussmann*, No. 1:21-cr-00582-CRC (D.D.C. Sept. 19, 2021) at ¶ 23(h).

- a) What was your reaction to learning that the goal of the analysis of the server data was to find “anything” showing that Mr. Trump may have attempted to act badly?

Response:

- b) Were you or anyone you worked with trying to gin up evidence of alleged wrongdoing between Mr. Trump and entities operating in or associated with Russia to spur a law enforcement investigation of Mr. Trump?

Response:

- c) Was your work on the server allegations motivated by a desire to prevent Mr. Trump’s election?

Response:

- d) Were you aware that Mr. Joffe’s intention was to provide materials to law enforcement?

Response:

- i) If yes, describe your reaction to this intention.

Response:

- e) To the best of your knowledge, were others aware of Mr. Joffe’s intention?

Response:

- i) If yes, who?

Response:

- ii) Describe their reaction, to the best of your knowledge.

Response:

28) Are you aware of any contracts Georgia Tech entered into in 2016 with the U.S. Department of Defense or other U.S. government agencies?

Response:

a) Did you complete work under the contract(s)?

Response:

i) If yes, describe your role.

Response:

b) Were you involved in the consideration of potential data providers under the contract?

Response:

i) If yes, describe your role and the providers you helped evaluate.

Response:

c) To the best of your knowledge, was data from potential subcontractors used to research Mr. Trump's alleged ties to Russia, including the server allegations?

Response:

i) If yes, who accessed the data and how was this data used?

Response:

29) Describe any work, if any, you have completed for TDIP.

Response:

a) Was the timing of the TDIP work connected to the nomination of Brian Benczkowski in any way, to the best of your knowledge?

Response:

i) If so, how?

Response:

30) How did you become involved in the TDIP work?

Response:

31) Describe any data you provided to TDIP or Mr. Jones.

Response:

32) Describe any analyses or work product you provided to TDIP or Mr. Jones.

Response:

33) Describe any pseudonyms you have used while working on the server allegations.

Response:

a) Have you used the username "tinadoug?"

Response:

34) Do you know anyone (else) who worked on research for TDIP?

Response:

a) If so, who?

Response:

b) Describe your knowledge of their work.

Response:

c) Did they contribute to a report created by TDIP regarding the server allegations?

Response:

35) Describe your familiarity with Kirk McConnell and anyone from the Senate Armed Services Committee or its staff.

Response:

- a) Describe any communications you had anyone from the Senate Armed Services Committee or its staff, including the content of the communications and how the interaction came about.

Response:

- 36) Were you aware that a goal of the TDIP work was to provide information related to the server allegations to law enforcement and members of the government?

Response:

- a) If so, describe your reaction to this goal.

Response:

- b) To the best of your knowledge, to whom was TDIP's report regarding the server allegations provided?

Response:

- 37) Did you review any data in connection with the TDIP work that you found to be unreliable?

Response:

- a) If yes, describe why you found it be unreliable.

Response:

- b) What steps, if any, did you take as a result?

Response:

- 38) Describe any communications you had with members of the media in 2016 or 2017 regarding the server allegations, including but not limited to:

- a) the substance of those conversations;
b) how you became in touch with those individuals; and
c) anyone else who was a party to the communications.

Response:

- 39) Describe any documents or data you provided to, or received from, members of the media in 2016 or 2017.

Response:

- 40) Describe any communications you had with members of the media in relation to your work for TDIP or Mr. Jones.

Response:

- a) Describe any documents or data you provided or received as a result of these communications

Response:

- 41) Describe any communications you or your counsel had with members of the media in 2021 regarding the server allegations or the indictment of Mr. Sussmann.

Response:

- a) Describe any documents you provided or received as a result of these communications.

Response:

- 42) Describe how your personal assessment of the server allegations has changed since 2016 or 2017, if at all.

Response:

- 43) Describe your habits regarding deletion of documents, emails, and communications.

Response:

- a) Have you deleted any documents, emails, or communications regarding the server allegations, or allowed such items to be deleted as a result of auto-deletion functions?

Response:

- 44) Describe any contact you have had with anyone from Special Counsel John Durham's team.

Response:

- a) Have you had to provide any testimony to the grand jury in connection with Special Counsel John Durham's investigation?

Response:

- b) Have you had to sit for any interviews conducted by Special Counsel Durham or his team?

Response:

- c) Have you had to provide documents to Special Counsel Durham?

Response:

- d) Have your attorneys provided any attorney proffers to Special Counsel Durham or his team?

Response:

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