

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**-against-**

**AMIT BHARDWAJ, DHIRENKUMAR  
PATEL, SRINIVASA KAKKERA,  
ABBAS SAEEDI, and RAMESH CHITOR,**

**Defendants.**

**1:22-cv-06277 (ALC)**

**~~PROPOSED~~ FINAL JUDGMENT AS TO DEFENDANT RAMESH CHITOR**

The Securities and Exchange Commission having filed a Complaint and Defendant Ramesh Chitor (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of

interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

## II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Defendant is prohibited, for seven years and six months following the date of entry of this Final Judgment, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

## III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$1,244,801, representing his ill-gotten gains as a result of the

conduct alleged in the Complaint, together with prejudgment interest in the amount of \$24,941, for a total of \$1,269,742. The obligation to pay this amount of disgorgement and prejudgment interest is deemed satisfied by entry of the order of forfeiture against Defendant in the related criminal case, *United States v. Chitor*, 22 Cr. 370 (LGS) (S.D.N.Y.) (Dkt. No. 22).

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under this Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

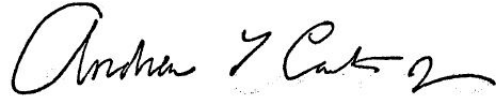
VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: September 24, 2024

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written in a cursive style.

---

UNITED STATES DISTRICT JUDGE  
Andrew L. Carter, Jr.

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**-against-**

**AMIT BHARDWAJ, DHIRENKUMAR  
PATEL, SRINIVASA KAKKERA,  
ABBAS SAEEDI, and RAMESH CHITOR,**

**Defendants.**

**1:22-cv-06277 (ALC)**

**CONSENT OF DEFENDANT RAMESH CHITOR**

1. Defendant Ramesh Chitor (“Defendant”) acknowledges having waived service of a summons and complaint in this action, enters a general appearance, and admits the Court’s jurisdiction over Defendant and over the subject matter of this action.

2. Defendant has pleaded guilty to criminal conduct relating to certain matters alleged in the complaint in this action. Specifically, in *United States v. Chitor*, 22 Cr. 370 (LGS) (S.D.N.Y.), Defendant pleaded guilty to violations of conspiracy to commit securities fraud [18 U.S.C. § 371], conspiracy to commit securities fraud and wire fraud [18 U.S.C. § 1349], and Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)]. In connection with that plea, Defendant admitted the facts set out in the transcript of his plea allocution that is attached as Exhibit A to this Consent.

3. Defendant hereby consents to the entry of the final Judgment in the form attached hereto (the “Final Judgment”) and incorporated by reference herein, which, among other things,

(a) permanently restrains and enjoins Defendant from violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], (b) orders that Defendant is liable for disgorgement in the amount of \$1,244,801 and prejudgment interest in the amount of \$24,941, but deems the obligation to pay those amounts satisfied by entry of the order of forfeiture against him in *United States v. Chitor*, 22 Cr. 370 (LGS) (S.D.N.Y.) (Dkt. No. 22); and (c) prohibits Defendant, for seven years and six months following the entry of this Final Judgment, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

4. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

5. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

6. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

7. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

8. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

9. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

10. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that he shall not be permitted to contest the factual allegations of the complaint in this action.

11. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant

or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings.” As part of Defendant’s agreement to comply with the terms of Section 202.5(e), Defendant acknowledges the guilty plea for related conduct described in paragraph 2 above, and: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, that the allegations in the complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under the Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19). If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant’s: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

12. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or



her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

13. In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Defendant (i) agrees to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints Defendant's undersigned attorney as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Defendant's travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over Defendant in any United States District Court for purposes of enforcing any such subpoena.

14. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

15. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: 08.14.2024 Ramesh Chitor  
Ramesh Chitor

On \_\_\_\_\_, 2024, \_\_\_\_\_, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

\_\_\_\_\_  
Notary Public  
Commission expires:

Approved as to form:

Robert M. Schechter  
Robert M. Schechter, Esq.  
Tilem & Associates, PC  
188 East Post Road  
White Plains, NY 10601  
rschechter@tilemlawfirm.com  
Attorney for Defendant

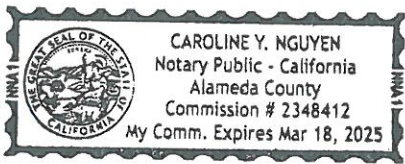
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of ALAMEDA )  
On AUG. 14, 2024 before me, CAROLINE Y. NGUYEN NOTARY PUBLIC  
(Date) (Here Insert Name and Title of the Officer)  
personally appeared RAMESH CHITOR  
(Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Caroline Y. Nguyen (Seal)  
(Signature of Notary Public)

# EXHIBIT A

M771CHIP

1 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

2 -----X

3 UNITED STATES OF AMERICA,

4 v.

5 RAMESH CHITOR,

6 Defendant.

Plea (Remote)

-----X

7  
8 July 7, 2022  
3:37 p.m.

9 Before:

10 HON. LORNA G. SCHOFIELD,

11 District Judge

12  
13 APPEARANCES

14 DAMIAN WILLIAMS  
United States Attorney for the  
15 Southern District of New York  
BY: RICHARD A. COOPER, ESQ.  
16 Assistant United States Attorney

17 TILEM & ASSOCIATES PC  
Attorneys for Defendant  
18 BY: PETER H. TILEM, ESQ.  
ROBERT M. SCHECHTER, ESQ.

19 ALSO PRESENT: VIOSANNY HARRISON, Pretrial Services Officer

20 ALSO PRESENT: JORDAN AVERY, Special Agent, FBI

M771CHIP

1 (Case called)

2 THE DEPUTY CLERK: Would counsel please state your  
3 name for the record.

4 MR. COOPER: Yes. Good afternoon, your Honor.  
5 Richard Cooper for the government. Also on the line is Special  
6 Agent Jordan Avery from the FBI.

7 THE COURT: All right. Good afternoon.

8 MR. TILEM: Good afternoon, your Honor. On behalf of  
9 Mr. Chitor, Peter Tilem, T-I-L-E-M, Tilem & Associates, and  
10 with me in the room but not on the screen is my associate  
11 Robert Schechter.

12 THE COURT: All right. Good afternoon.

13 MR. TILEM: Good afternoon.

14 MS. HARRISON: Good afternoon, your Honor. Pretrial  
15 officer Viosanny Harrison from pretrial on the line, your  
16 Honor.

17 THE COURT: Okay. Thank you for joining us.

18 THE DEFENDANT: Good afternoon, your Honor. Ramesh  
19 Chitor.

20 THE COURT: Okay. Good afternoon, Mr. Chitor.  
21 So Mr. Tilem, I understand you have an application  
22 today?

23 MR. TILEM: I do, your Honor.

24 THE COURT: And what is it?

25 MR. TILEM: My application is to change -- my client

M771CHIP

1 has agreed to actually proceed by information and he wishes to  
2 enter a plea of guilty today to an information that's before  
3 the Court.

4 THE COURT: All right. So before we do that,  
5 Mr. Chitor, there are a few preliminary things I need to deal  
6 with.

7 First, obviously, we're proceeding by videoconference,  
8 and I myself am outside the district. So I want to be sure  
9 that you can see and hear me. Can you?

10 THE DEFENDANT: I can see and hear you. Thank you.

11 THE COURT: All right. If at any point in the  
12 proceedings you're unable to see or hear me or anyone else who  
13 you should be able to see, would you please let us know right  
14 away so that we can fix that.

15 THE DEFENDANT: Will do, and thank you again.

16 THE COURT: Okay. You have the right to be physically  
17 present for this proceeding. I have an email from your lawyer  
18 requesting that we proceed remotely. I want to confirm with  
19 you that you waive your right to be physically present and that  
20 you'd like us to proceed in this way.

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: I find that the proceeding cannot be  
23 further delayed without serious harm to the interests of  
24 justice because Mr. Chitor is located in California. I think  
25 that's right. Are you in California?

M771CHIP

1 THE DEFENDANT: Yes, ma'am, that is correct.

2 THE COURT: All right. And he and the government wish  
3 for him to proceed with his guilty plea expeditiously so that  
4 he can take responsibility and move on with the next chapter of  
5 his life, and we're still in the midst of a coronavirus  
6 pandemic, which makes travel challenging. So we'll proceed  
7 here by videoconference.

8 Mr. Chitor, I understand from your lawyer that you  
9 wish to waive indictment and plead guilty to an information,  
10 which contains four counts; is that right?

11 THE DEFENDANT: That is correct, your Honor.

12 THE COURT: Before I do that, I'm going to ask you  
13 some questions, and it's important that you answer the  
14 questions honestly and completely. The purpose of the  
15 questions is to make sure you understand your rights and that  
16 you are waiving indictment and pleading guilty of your own free  
17 will, and I also want to be sure that you're pleading guilty  
18 because you are guilty and that you fully understand what will  
19 happen as a result of your plea. Also, it's important that you  
20 understand every question before you answer it, so please tell  
21 me if there's anything you don't understand and either I or  
22 your lawyer will explain it to you.

23 Before we do that, I'd like Mr. Street, my deputy  
24 clerk, to administer the oath to the defendant.

25 (Defendant sworn)

M771CHIP

1 THE COURT: Okay. Mr. Chitor, do you understand that  
2 you're now under oath and that if you answer my questions  
3 falsely, your untrue answers may be used against you later in  
4 another proceeding, for example, a prosecution for perjury or  
5 for making false statements?

6 THE DEFENDANT: I understand, your Honor.

7 THE COURT: All right. So first of all, please tell  
8 me your full name.

9 THE DEFENDANT: Ramesh Venkat Chitor.

10 THE COURT: How old are you?

11 THE DEFENDANT: I am 45 years and two months old.

12 THE COURT: How far did you go in school?

13 THE DEFENDANT: A master's in business.

14 THE COURT: And where did you get your master's  
15 degree?

16 THE DEFENDANT: California State University, Hayward,  
17 East Bay.

18 THE COURT: And how long ago was that?

19 THE DEFENDANT: That was in the year 2005.

20 THE COURT: Mr. Chitor, are you now or have you  
21 recently been under the care or treatment of a doctor or a  
22 psychiatrist?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: And have you ever been treated or  
25 hospitalized for any mental illness or any type of addiction,



M771CHIP

1 including drug or alcohol addiction?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: In the past 24 hours have you taken any  
4 drugs or medicine or pills or drunk any alcohol?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: And is your mind clear today?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Do you understand what we're doing?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Okay. Let me ask Mr. Tilem first, do you  
11 have any doubt as to Mr. Chitor's competence to enter a plea  
12 today?

13 MR. TILEM: I do not, your Honor.

14 THE COURT: Mr. Cooper, do you?

15 MR. COOPER: I do not. Although one procedural point,  
16 your Honor.

17 THE COURT: Yes.

18 MR. COOPER: This is Mr. Chitor's first judicial  
19 appearance, so I wasn't sure the order that the Court was going  
20 to proceed, but it may also make sense to provide Mr. Chitor  
21 with the Rule 5 cautions before proceeding further, including  
22 his right not to make a statement and any statement may be used  
23 against him.

24 THE COURT: Okay. Give me a second. I'm just going  
25 to excuse myself for a minute and get another piece of paper or

M771CHIP

1 another thing on my screen and I'll join you in just one sec,  
2 okay?

3 MR. COOPER: Thank you, your Honor.

4 (Pause)

5 THE COURT: All right. So I want to be sure you can  
6 hear me. I'm not sure if you can see me. Can you hear me?

7 THE DEFENDANT: I can hear and see you, your Honor.

8 THE COURT: All right. So since this is your first  
9 appearance in court, one of the things I need to do is inform  
10 you of certain rights you have, and the first is -- I'll tell  
11 you all of them, make sure you understand. You have the right  
12 to remain silent, and you're not required to make any  
13 statements; second, even if you have made any statements to the  
14 authorities, you need not make any further statements; and  
15 finally, anything you say can be used against you. Do you  
16 understand that those are your rights?

17 THE DEFENDANT: I do, your Honor.

18 THE COURT: Okay. Do you still want to proceed today?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: All right. And I understand you have your  
21 counsel here for you, Mr. Tilem. Are you satisfied with his  
22 representation of you?

23 THE DEFENDANT: Very satisfied, yes. Thank you.

24 THE COURT: All right. And one of the other things I  
25 need to do is inform you of the charges against you. We'll

M771CHIP

1 actually discuss them in a greater amount of detail, but you  
2 understand that you are charged in a document called an  
3 information and that there are four separate charges in that  
4 document? Do you understand that?

5 THE DEFENDANT: I do, your Honor.

6 THE COURT: All right. So why don't we then proceed  
7 and let me make my finding that on the basis of Mr. Chitor's  
8 responses to my questions and my observations of his demeanor,  
9 I find that he's fully competent to participate in our  
10 proceedings today.

11 So the first matter that I'd like to deal with, now  
12 that we have covered the preliminary matters, is the waiver of  
13 indictment. I want to explain to you certain rights that  
14 you'll be giving up if you decide to proceed by information—in  
15 other words, this document that has been produced by the  
16 prosecutor with charges—instead of proceeding by an indictment,  
17 which is returned by a grand jury. So what I'm going to do now  
18 is explain to you various rights, and if at any point you don't  
19 understand, just stop me and I'll explain, okay?

20 You have a constitutional right to be charged by  
21 indictment, presented by a grand jury, but you can waive that  
22 right and consent to being charged by a document called an  
23 information returned by the prosecutor. Instead of an  
24 indictment, the charge against you in the information has been  
25 brought by the prosecutor in the document called the

M771CHIP

1 information. Have you had a chance to look at the information?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Unless you waive indictment, you may not  
4 be charged with a felony unless a grand jury finds that there  
5 was probable cause to believe that a crime has been committed  
6 and that you committed it. If you do not waive indictment, the  
7 government may present the case to a grand jury and ask the  
8 grand jury to indict you. A grand jury consists of at least 16  
9 and not more than 23 people, and at least 12 grand jurors must  
10 find that there is probable cause to believe that you committed  
11 the crime with which you're charged before you may be indicted.  
12 And the grand jury might or might not indict you. But if you  
13 waive indictment by the grand jury, the case will proceed  
14 against you on the prosecutor's information just as though you  
15 had been indicted. Do you understand all that I just told you?

16 THE DEFENDANT: I do. I do, and I appreciate it.  
17 Thank you, your Honor.

18 THE COURT: And have you discussed waiving your right  
19 to indictment by the grand jury with your lawyer?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Have any threats or promises been made to  
22 you to induce you to waive your right to indictment?

23 THE DEFENDANT: Absolutely none.

24 THE COURT: And do you wish to waive indictment by a  
25 grand jury?

M771CHIP

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: And let me ask Mr. Tilem, is there any  
3 reason that Mr. Chitor should not be permitted to waive  
4 indictment?

5 MR. TILEM: None that I'm aware of, your Honor.

6 THE COURT: And are you satisfied that his waiver is  
7 knowing, voluntary, and intelligent?

8 MR. TILEM: I am, your Honor.

9 THE COURT: All right. And I've been given a waiver  
10 of indictment form that appears to have been signed by you,  
11 Mr. Chitor. Did you sign a waiver of indictment form?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And did you read the document before you  
14 signed it?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Based on everything you've said to me, I  
17 find that you, Mr. Chitor, are fully competent and aware of the  
18 nature of your right to require the government to proceed by  
19 way of an indictment, I find that your waiver of indictment is  
20 freely, intelligently, and voluntarily made, and therefore the  
21 waiver is accepted and so ordered.

22 So with that finished, I would now like to turn to the  
23 issue of a guilty plea. And similarly, I'm going to explain  
24 some rights to you. You'll be giving up those rights if you  
25 decide to plead guilty. Again, please stop me if there's

M771CHIP

1 anything you don't understand, or if you want to ask about it.

2 If you pleaded not guilty, you would be entitled to a  
3 speedy and public trial before a jury of 12 people. Do you  
4 understand that?

5 THE DEFENDANT: I do, your Honor.

6 THE COURT: And if there were a trial, you would be  
7 presumed innocent and the government would be required to prove  
8 your guilt by competent evidence beyond a reasonable doubt.  
9 You would not have to prove that you were innocent if you went  
10 to trial.

11 If there were a jury trial, you could not be convicted  
12 unless a jury of 12 people all agreed that you were guilty  
13 beyond a reasonable doubt.

14 You'd have the right to be represented by an attorney  
15 throughout all the proceedings, including trial, if there is  
16 one, and if you could not afford an attorney, one would be  
17 provided for you free of cost.

18 If there were a trial, you would have the right to see  
19 and hear all of the witnesses against you, and your attorney  
20 could cross-examine them. You'd have the right to have your  
21 attorney object to the government's evidence and to offer  
22 evidence on your own behalf if you wanted. And you'd have the  
23 right to have subpoenas issued or other process used to compel  
24 witnesses to come to court and testify in your defense.

25 If there were a trial, you would have the right to

M771CHIP

1 testify if you wanted, but no one could force you to testify if  
2 you did not want to, and no inference or suggestion of guilt  
3 could be drawn if you chose not to testify at trial. But if  
4 you do plead guilty and I accept your plea, you'll be giving up  
5 your right to trial and all the other related rights that I  
6 just explained. If you plead guilty, there will be no trial,  
7 and I will enter a judgment of guilty and sentence you on  
8 another day.

9           Finally, if you plead guilty, you'll be giving up your  
10 right not to incriminate yourself and I'll ask you questions  
11 today about what you did in order to satisfy myself that you're  
12 guilty as charged.

13           Do you understand the rights that I've just explained  
14 to you?

15           THE DEFENDANT: I do, your Honor.

16           THE COURT: And even now you have the right to change  
17 your mind; you're entitled to plead not guilty and go to trial.  
18 Do you understand that?

19           THE DEFENDANT: Yes, your Honor.

20           THE COURT: Okay. So now I'd like to review the  
21 charges and penalties.

22           You told me that you had received a copy of the  
23 information. Did you read it and review it with your lawyer?

24           THE DEFENDANT: Yes, your Honor, I did.

25           THE COURT: Do you understand that you're charged with

M771CHIP

1 four counts—one for conspiracy to commit securities fraud; two,  
2 conspiracy to commit securities fraud and wire fraud; three,  
3 securities fraud; and four, making false statements?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Okay. So now I'm going to ask Mr. Cooper,  
6 and why don't we take each charge separately, unless you have  
7 prepared yourself in a different way. So let's begin with  
8 Count One. Could you explain to us what the elements of that  
9 offense are.

10 MR. COOPER: Yes, your Honor. Count One charges  
11 conspiracy to commit securities fraud, in violation of Title 18  
12 U.S. Code Section 371. There are three elements to that  
13 charge:

14 First, that the charged conspiracy existed;

15 Second, that the defendant intentionally joined and  
16 participated in the conspiracy during the applicable time  
17 period; and

18 Third, that at least one of the co-conspirators  
19 committed an overt act in furtherance of the conspiracy.

20 The object of the conspiracy in Count One is  
21 securities fraud, in violation of Title 15 U.S. Code Sections  
22 78j(b) and 78ff, and Title 17 of the Code of Federal  
23 Regulations, Section 240.10b-5. That offense has the following  
24 three elements:

25 First, that in connection with a purchase or sale of



M771CHIP

1 securities, the defendant employed a device, scheme, or  
2 artifice to defraud, or engaged in an act, practice, or course  
3 of business that operated or would operate as fraud or deceit  
4 upon a purchaser or seller of the specified security;

5 Second, that when he engaged in this scheme, the  
6 defendant acted knowingly, wilfully, and with an intent to  
7 defraud; and

8 Third, that in furtherance of the scheme, there  
9 occurred at least one use of any means or instrument of  
10 transportation or communication in interstate commerce, or the  
11 use of the mails, or the use of any facility of any national  
12 securities exchange.

13 THE COURT: Okay. So do you understand that if you  
14 did not plead guilty to Count One, the government would have to  
15 prove each and every element of the charge beyond a reasonable  
16 doubt at trial?

17 THE DEFENDANT: I do understand, your Honor.

18 THE COURT: And I want to be sure that you understand  
19 the maximum penalty for Count One, which is five years'  
20 imprisonment, a maximum term of supervised release of three  
21 years, a maximum fine of the greater of \$250,000, twice the  
22 gross pecuniary gain derived from the offense, or twice the  
23 gross pecuniary loss to a person other than yourself as a  
24 result of the offense, plus a \$100 mandatory special  
25 assessment. Do you understand that's the maximum penalty for

M771CHIP

1 Count One?

2 THE DEFENDANT: I do, your Honor.

3 THE COURT: Okay. Let's turn to Count Two.

4 Mr. Cooper, could you tell us the elements for that count.

5 THE DEFENDANT: Yes, your Honor.

6 Count Two charges conspiracy to commit securities

7 fraud and wire fraud, in violation of 18 U.S. Code

8 Section 1349. That offense has two elements:

9 First, that the charged conspiracy existed; and

10 Second, that the defendant intentionally joined and

11 participated in the conspiracy during the applicable time

12 period.

13 There are two objects of this conspiracy charged in

14 Count Two. First is securities fraud, in violation of 18 U.S.

15 Code Section 1348. That offense has the following three

16 elements:

17 First, that the defendant executed a scheme to defraud

18 a person or to obtain money or property by materially false or

19 fraudulent pretenses, representations, or promises;

20 Second, that the defendant participated in the scheme

21 knowingly, wilfully, and with an intent to defraud; and

22 Third, that the scheme to defraud was connected to the

23 purchase or sale of stock in a company whose securities were

24 registered under Section 12 of the Securities Exchange Act of

25 1934 or was otherwise required to file reports under that act.

M771CHIP

1           The second object of the conspiracy charged in Count  
2 Two was wire fraud, in violation of 18 U.S. Code Section 1343.

3 There are three elements to that offense:

4           First, that there was a scheme or artifice to defraud  
5 or to obtain money or property by materially false and  
6 fraudulent pretenses, representations, or promises;

7           Second, that the defendant knowingly and wilfully  
8 participated in the scheme or artifice to defraud, with  
9 knowledge of its fraudulent nature and with specific intent to  
10 defraud; and

11           Third, that in execution of that scheme, the defendant  
12 used or caused the use of interstate or international wires.

13           THE COURT: All right. And again, Mr. Chitor, do you  
14 understand that if you did not plead guilty, the government  
15 would have to prove each of those elements beyond a reasonable  
16 doubt at trial?

17           THE DEFENDANT: I do understand, your Honor.

18           THE COURT: Okay. And let me explain the maximum  
19 penalty for Count Two, which we've just heard about, and that  
20 is 20 years' imprisonment, a maximum term of supervised release  
21 of three years, a maximum fine of the greatest of \$250,000 or  
22 twice the gross pecuniary gain derived from the offense or  
23 twice the gross pecuniary loss to someone other than yourself  
24 as a result of the offense, plus there's a \$100 mandatory  
25 special assessment.

M771CHIP

1 Let's turn to Count Three. Mr. Cooper?

2 MR. COOPER: Yes. Count Three charges securities  
3 fraud, in violation of 15 U.S. Code Section 78j(b) and 78ff and  
4 17 Code of Federal Regulations Section 240.10b-5. This charge  
5 has the same elements as the object of the securities fraud  
6 conspiracy charged in Count One that I described a few moments  
7 ago. Would the Court like me to repeat those?

8 THE COURT: I don't think it's necessary. Let me just  
9 make sure that Mr. Chitor is comfortable having heard them  
10 already.

11 THE DEFENDANT: I am, your Honor. I am comfortable.

12 THE COURT: All right. So you don't have to repeat  
13 them, Mr. Cooper.

14 So again, you understand that if you didn't plead  
15 guilty, the government would have to prove those elements with  
16 respect to Counts Three at trial?

17 THE DEFENDANT: I do, your Honor.

18 THE COURT: So the maximum penalty for Count Three is  
19 20 years' imprisonment, a maximum term of supervised release of  
20 three years, a maximum fine of the greatest of \$5 million or  
21 twice the gross pecuniary gain derived from the offense or  
22 twice the gross pecuniary loss to someone other than yourself  
23 from the offense, plus there's a \$100 mandatory special  
24 assessment.

25 Mr. Cooper, finally, can you tell us the elements of

M771CHIP

1 Count Four.

2 MR. COOPER: Yes. Count Four charges false  
3 statements, in violation of Title 18 U.S. Code Section 1001.

4 The elements are as follows:

5 First, the defendant made a statement or  
6 representation;

7 Second, the statement was false, fictitious, or  
8 fraudulent;

9 Third, the statement or representation was material;

10 Fourth, the defendant acted knowingly and wilfully;

11 and

12 Fifth, the statement pertained to a matter within the  
13 jurisdiction of the Executive Branch of the United States  
14 government.

15 THE COURT: Okay. And you understand, Mr. Chitor,  
16 that with respect to that count, like all the other ones, if  
17 you did not plead guilty to it, the government would have to  
18 prove each of those elements beyond a reasonable doubt at  
19 trial?

20 THE DEFENDANT: I do, your Honor.

21 THE COURT: Okay. So the maximum penalty for Count  
22 Four is five years' imprisonment, a maximum term of supervised  
23 release of three years, a maximum fine of the greatest of  
24 \$250,000 or twice the gross pecuniary gain derived from the  
25 offense or twice the gross pecuniary loss to someone other than

M771CHIP

1 yourself as a result of the offense, plus for this count as  
2 well, there's a \$100 mandatory special assessment.

3 So just to recap, in terms of the maximum penalty, you  
4 would be pleading to four different counts of the information,  
5 and you should understand that I will impose a separate  
6 sentence on each count. Is that clear to you?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: You should also understand that I may  
9 order you to serve the sentence either concurrently, meaning  
10 all the sentences at the same time, or consecutively, meaning  
11 one after another, and that if I imposed consecutive sentences,  
12 your maximum total sentence could be as much as 50 years. Do  
13 you understand that?

14 THE DEFENDANT: I do, your Honor.

15 THE COURT: Okay. Now give me just a minute here.

16 So let me explain a little bit about supervised  
17 release. And there is a maximum term of supervised release for  
18 each of those counts of three years, and I would impose those  
19 concurrently, and during that period you'd be subject to  
20 monitoring after you're released from any term of imprisonment,  
21 and there are rules that you'd have to follow, and if you  
22 violated those rules, you could be sent to prison or returned  
23 to prison without a jury trial to serve additional time even  
24 beyond your original sentence, and if that happened, you would  
25 not be given credit for time served in prison on any original

M771CHIP

1 sentence and no credit for any time spent on supervised  
2 release. Do you understand that?

3 THE DEFENDANT: I do, your Honor.

4 THE COURT: So being on supervised release is a little  
5 bit like being on parole, only it comes after any prison  
6 sentence and there's no possibility of being released early.  
7 In fact, you should understand that parole has been abolished  
8 in the federal system and that if you were sentenced to prison,  
9 you would not be released early on parole. Do you understand  
10 that?

11 THE DEFENDANT: I do, your Honor.

12 THE COURT: And I understand, Mr. Chitor, that you are  
13 a United States citizen; is that right?

14 THE DEFENDANT: That is correct, your Honor.

15 THE COURT: All right. So I won't discuss with you  
16 the various immigration consequences that could occur as a  
17 result of your pleading guilty. You should just know that if  
18 you were not a citizen, that there would certainly be  
19 consequences.

20 Your plea agreement also provides that you will make  
21 restitution to any person injured as a result of your criminal  
22 conduct in an amount to be specified by the Court. Do you  
23 understand that?

24 THE DEFENDANT: I do, your Honor.

25 THE COURT: And your plea agreement also provides that

M771CHIP

1 you admit the forfeiture allegation for Counts One through  
2 Three of the information and that you agree to forfeit to the  
3 United States an amount of money equal to the proceeds  
4 traceable to the offenses in Counts One, Two, and Three. Do  
5 you understand that?

6 THE DEFENDANT: I do, your Honor.

7 THE COURT: And do you also understand that the  
8 forfeiture amount that you would be required to pay is separate  
9 from any fine or separate from any restitution order?

10 THE DEFENDANT: I do, your Honor.

11 THE COURT: Okay. Give me just a second here.

12 You should also understand that since you're a  
13 citizen, you have various civil rights, but if I accept your  
14 guilty plea and I adjudge you guilty, that may deprive you of  
15 valuable civil rights, like the right to vote, the right to  
16 hold public office, the right to serve on a jury, the right to  
17 possess any kind of firearm, and the right to hold certain  
18 professional licenses. Do you understand that?

19 THE DEFENDANT: I understand that, your Honor.

20 THE COURT: And have you talked to your lawyer about  
21 the federal sentencing guidelines and how they apply to your  
22 case?

23 THE DEFENDANT: Yes, your Honor, at length.

24 THE COURT: Okay. Let me review some of that.  
25 In imposing sentence, I'm required to consider the



M771CHIP

1 recommendations of the sentencing guidelines. They're a set of  
2 rules for determining an appropriate sentence. And I also have  
3 to determine whether there should be any upward or downward  
4 departure from the recommended guideline range. I must pay  
5 attention to the guidelines in determining sentence, but in the  
6 end, I'm required to impose a sentence that I believe has  
7 satisfied the purposes of the criminal law based on various  
8 factors that are set forth in a statute, even if the sentence  
9 is higher or lower than what the guidelines recommend. Do you  
10 understand that?

11 THE DEFENDANT: I do, your Honor.

12 THE COURT: And I won't be able to determine how the  
13 guidelines apply to your case until much later, until after a  
14 presentence report has been prepared by the probation office  
15 and you and the government have had a chance to comment on it  
16 or challenge it and after you have had a chance to do anything  
17 else you intend to do in connection with the government. Do  
18 you understand that?

19 THE DEFENDANT: I do, your Honor. I do.

20 THE COURT: So do you also understand that if  
21 Mr. Tilem or anyone else has attempted to predict what your  
22 sentence would be, they could be wrong?

23 THE DEFENDANT: I do. I do, your Honor.

24 THE COURT: And the reason I'm telling you this is  
25 because you need to understand that no one can be sure right

M771CHIP

1 now what your sentence will be. Even I don't know what your  
2 sentence will be. It will be my job to decide that, and I'm  
3 not in a position to do it now. As I said before, I'll wait  
4 until I get much more information, both from the lawyers as  
5 well as the probation department in preparing the presentence  
6 report. I'll also have to calculate the guidelines  
7 recommendation, I'll have to consider whether there are any  
8 grounds to depart from the range, consider all the factors in  
9 the statute that I'm required to consider, so please understand  
10 that no one can predict what your sentence will be. Do you  
11 understand that?

12 THE DEFENDANT: I do, your Honor. I really do.

13 THE COURT: Okay. Do you also understand that even if  
14 your sentence is different from what your attorney or anyone  
15 else told you it might be, or if it's different from what you  
16 expect it to be, do you understand that once you plead guilty,  
17 you will not be allowed to withdraw your plea?

18 THE DEFENDANT: Yes, I do, your Honor. I do.

19 THE COURT: Has anyone threatened or coerced you in  
20 any way or tried to force you to plead guilty?

21 THE DEFENDANT: No, your Honor, no.

22 THE COURT: And has anyone, other than the government  
23 in the plea agreement, promised you or offered you anything in  
24 order to get you to plead guilty?

25 THE DEFENDANT: No, your Honor. No.

M771CHIP

1 THE COURT: So I have a copy of the plea agreement.  
2 It's a letter dated June 29, 2022, from the prosecutor to your  
3 attorney, and it will be marked as a Court exhibit. Did you  
4 sign the plea agreement?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: And did you read it before signing it?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Did you discuss it with your lawyer before  
9 you signed it?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: And did you discuss every aspect of it?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And do you understand the agreement now  
14 and did you understand it when you signed it?

15 THE DEFENDANT: Both, yes, your Honor.

16 THE COURT: Okay. Is the plea agreement the entire  
17 agreement between you and the government?

18 THE DEFENDANT: No. There's more to that.

19 THE COURT: Okay. I actually don't think so. I think  
20 that the plea agreement is the entire agreement between you and  
21 the government at this point. But let me ask Mr. Cooper.

22 MR. COOPER: Your Honor, the plea agreement is the  
23 entire agreement between the government and Mr. Chitor, but  
24 perhaps the Court can also confirm that with Mr. Tilem and  
25 Mr. Chitor.

M771CHIP

1 THE COURT: I will, of course.

2 MR. COOPER: Thank you.

3 THE COURT: Okay. It may be that there is some  
4 misunderstanding on Mr. Chitor's part, so --

5 THE DEFENDANT: Thank you. I can defer to Mr. Tilem.  
6 I was thinking about the other agreement as well, but it's just  
7 the plea. It's the same plea agreement. I defer to my defense  
8 counsel.

9 THE COURT: You're right. There is a bail agreement  
10 and there is I believe a sealing agreement, but let me just ask  
11 Mr. Tilem.

12 MR. TILEM: Your Honor, it is my understanding that  
13 this is the only agreement, that the plea agreement is the only  
14 agreement between the government and Mr. Chitor, and the  
15 agreement, the plea agreement that was signed by me and -- both  
16 Mr. Chitor and myself indicates that it's the only agreement  
17 between the parties.

18 THE COURT: All right. So Mr. Chitor, I want to be  
19 sure you understand now that the plea agreement is the only  
20 agreement between you and the government. Is that clear?

21 THE DEFENDANT: It is clear, your Honor. Thank you  
22 for that. I really appreciate it.

23 THE COURT: Sure. Has anyone threatened or coerced  
24 you or forced you to enter into the plea agreement?

25 THE DEFENDANT: No, your Honor, not at all.

M771CHIP

1                   THE COURT:   And other than what is contained in the  
2 plea agreement, has anyone promised you anything or offered you  
3 any inducement to plead guilty or to enter into the plea  
4 agreement?

5                   THE DEFENDANT:   No, your Honor.  It's all --

6                   THE COURT:   And has anyone made a promise to you as to  
7 what your sentence would be?

8                   THE DEFENDANT:   No, your Honor.

9                   THE COURT:   Okay.  Now do you also understand that the  
10 government could make a motion before your sentencing, called a  
11 5K motion, that could influence me to give you a lower sentence  
12 in light of your cooperation with the government?  Do you  
13 understand that that's a possibility?

14                  THE DEFENDANT:   I do understand, your Honor.

15                  THE COURT:   And do you also understand that it's up to  
16 the government and not to me to decide whether your cooperation  
17 has been good enough and productive enough to warrant the  
18 government making that motion?

19                  THE DEFENDANT:   I do understand, your Honor.

20                  THE COURT:   And do you also understand that even if  
21 the government decides to make the motion, it is still up to me  
22 to decide whether to give you any credit for your cooperation  
23 and how much?

24                  THE DEFENDANT:   I do understand, your Honor.

25                  THE COURT:   Do you also understand that under certain

M771CHIP

1 circumstances both you and the government have the right to  
2 appeal any sentence that I might impose, subject to the terms  
3 of the plea agreement?

4 THE DEFENDANT: I do understand, your Honor.

5 THE COURT: So in recap, have you clearly understood  
6 everything so far that has happened today?

7 THE DEFENDANT: Yes, your Honor. Thank you.

8 THE COURT: And now that you've been advised of the  
9 charges against you, the possible penalties you face, and the  
10 rights you're giving up, is it still your wish to plead guilty  
11 to Counts One, Two, Three, and Four of the information?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: So I'd like to ask Mr. Cooper what the  
14 government would expect to prove in this case if it went to  
15 trial.

16 MR. COOPER: Yes, your Honor.

17 If this case were to go to trial, the government would  
18 produce evidence, including materials obtained pursuant to a  
19 judicially authorized search warrant on Mr. Chitor's telephone,  
20 as well as electronic devices and electronic communications  
21 accounts of co-conspirators, as well as trading records,  
22 records of communications, and records of cell site locations  
23 for Mr. Chitor and others.

24 THE COURT: And in addition to telling me the types of  
25 evidence, could you summarize for me what that evidence would

M771CHIP

1 show.

2 MR. COOPER: Yes, your Honor. The evidence would show  
3 that Mr. Chitor participated in an insider trading conspiracy  
4 pursuant to which he received material nonpublic information  
5 about a planned acquisition of a company named NeoPhotonics by  
6 another company named Lumentum; that at the time Mr. Chitor  
7 understood that the information was material nonpublic  
8 information, and that he provided a benefit to the source of  
9 that information—namely, a promise to share in the proceeds of  
10 insider trading.

11 In addition, the evidence would show that the FBI  
12 conducted an interview of Mr. Chitor in or about March 2022 and  
13 that Mr. Chitor also participated in meetings with the FBI and  
14 representatives of the United States government, the United  
15 States Attorney's Office, in or about April 2022, and that  
16 during those meetings, on certain occasions, and about certain  
17 issues, Mr. Chitor provided materially false information.

18 THE COURT: Okay. So Mr. Chitor, you understand,  
19 we've been through all four counts, you've heard what the  
20 government has said. First of all, let me ask you, with  
21 respect to what the government just said that you did, is that  
22 in substance true?

23 THE DEFENDANT: It is true, your Honor.

24 THE COURT: Okay. So I'd like you to tell me in your  
25 own words what you did that makes you believe that you're

M771CHIP

1 guilty of the four crimes to which you're pleading guilty.

2 THE DEFENDANT: Yes, your Honor.

3 In October of last year, October of 2021, an  
4 acquaintance of mine, Mr. Amit Bhardwaj, who had a very high  
5 position in this publicly traded company called Lumentum,  
6 proposed that I buy stock of this company called NeoPhotonics  
7 in my account based upon inside information that he had that  
8 Lumentum was about to acquire this company NeoPhotonics.  
9 Mr. Bhardwaj also proposed that we split the profits 50/50, in  
10 exchange for using my account and him providing the  
11 information.

12 I then bought stock and also exchanged traded call  
13 options in NeoPhotonics with the intent of making a large  
14 profit after the acquisition would be announced.

15 In November 2021, the following month, immediately  
16 after the Lumentum acquisition of NeoPhotonics, I sold my  
17 position, making a large profit. I then arranged for money to  
18 be given to a relative of Mr. Bhardwaj in India as his share of  
19 the profits. We both downloaded the Signal messaging app so  
20 that we could communicate about the trading and profit-sharing  
21 and so that our activities would be harder to detect.

22 In March and April of this year, 2022, I was  
23 questioned about these activities by the FBI, the U.S.  
24 Attorney's Office, and others. I made materially false  
25 statements to law enforcement in an attempt to cover up the



M771CHIP

1 full extent of my activities in regard to these trades and the  
2 sharing of these profits.

3 I knew this was wrong and that this was illegal.

4 THE COURT: Okay. Thank you.

5 Did anyone threaten or coerce or force you to do these  
6 things?

7 THE DEFENDANT: No, your Honor.

8 THE COURT: Okay. Mr. Cooper, are there any  
9 additional questions that you want me to ask?

10 MR. COOPER: There are not, your Honor, although if  
11 it's all right, I can make a proffer on venue for the Court.

12 THE COURT: Okay. Go ahead.

13 MR. COOPER: With respect to venue, if this case  
14 proceeded to trial, government would establish venue by a  
15 preponderance of the evidence. With respect to Counts One,  
16 Two, and Three, the government would demonstrate that certain  
17 executing brokers for certain of the stock purchases that the  
18 defendant made in NeoPhotonics were based in the Southern  
19 District of New York; and second, that the entity that provided  
20 the clearing services for most of the transactions at issue was  
21 located in part in the Southern District of New York.

22 With respect to the false statements charge, Count  
23 Four, we would prove venue by the fact that the defendant was  
24 aware that the investigation was being conducted out of the  
25 Southern District of New York and that certain of the false

M771CHIP

1 statements were made while the defendant was physically present  
2 in the Southern District of New York.

3 THE COURT: Okay. Thank you.

4 And Mr. Cooper, do you believe there is a sufficient  
5 factual predicate for a guilty plea?

6 MR. COOPER: Yes, your Honor.

7 THE COURT: And Mr. Tilem, do you agree?

8 MR. TILEM: I do agree.

9 THE COURT: And Mr. Tilem, are there any additional  
10 questions that you would like me to ask of your client?

11 MR. TILEM: No, your Honor.

12 THE COURT: Do you know of any valid defense that  
13 would prevail at trial or any reason why your client should not  
14 be permitted to plead guilty?

15 MR. TILEM: I do not, your Honor.

16 THE COURT: So Mr. Chitor, I will take your plea now.  
17 How do you plead to the charge in Count One of the information,  
18 guilty or not guilty?

19 THE DEFENDANT: Guilty, your Honor.

20 THE COURT: And in Count Two, guilty or not guilty?

21 THE DEFENDANT: Guilty, your Honor.

22 THE COURT: Count Three, guilty or not guilty?

23 THE DEFENDANT: Guilty, your Honor.

24 THE COURT: And Count Four, guilty or not guilty?

25 THE DEFENDANT: I plead guilty, your Honor.

M771CHIP

1 THE COURT: And are you in fact guilty of all of those  
2 charges?

3 THE DEFENDANT: Yes, I am, your Honor.

4 THE COURT: Are you pleading guilty voluntarily and of  
5 your own free will?

6 THE DEFENDANT: Voluntarily, yes, your Honor.

7 THE COURT: Do you admit the forfeiture allegations in  
8 the information which require you to forfeit property  
9 representing the proceeds traceable to the commission of the  
10 crimes charged in Counts One through Three?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Was that a yes?

13 THE DEFENDANT: Yes. Yes, your Honor.

14 THE COURT: So Mr. Chitor, on the basis of your  
15 responses to my questions and my observations of your demeanor,  
16 I am satisfied that you understand your rights and that you're  
17 waiving them knowingly, voluntarily, with an understanding of  
18 the consequences of your plea, including potential sentences  
19 that might be imposed, that you're voluntarily pleading guilty,  
20 that you've admitted you're guilty as charged in Counts One  
21 through Four of the information, that your plea is supported by  
22 an independent factual basis as to each and every element, and  
23 accordingly, I accept your guilty plea and adjudge you guilty  
24 on the charges in Counts One, Two, Three, and Four.

25 Mr. Cooper, what would you like to do about a

M771CHIP

1 sentencing date and the presentence report?

2 MR. COOPER: Your Honor, with respect to the  
3 presentencing report, we'd request that the Court defer that,  
4 and when it comes time, when the defendant's cooperation  
5 attempt has completed, we can advise the Court and request that  
6 the Court order a PSR at that time.

7 With respect to a sentencing date, our suggestion is  
8 that the Court set a control date for six months out, at which  
9 time the government will advise the Court as to the status of  
10 the defendant's cooperation and whether a further adjournment  
11 is necessary.

12 THE COURT: Mr. Tilem, is that acceptable to you?

13 MR. TILEM: Yes, your Honor. I join in both of those  
14 applications.

15 THE COURT: All right. Well, let's do this instead.  
16 What I will do is order a letter just prior to our control date  
17 so that we know whether we're proceeding then rather than  
18 having a conference, and I will require the letter -- why don't  
19 I just put that in a written order, but I'll require the letter  
20 sufficiently before the six-month date so there is time for --  
21 well, actually, let's not do that at all. Why don't we do  
22 this: In six months, which would be January 7th, if you could  
23 give me a letter by January 7th updating me on the status. If  
24 Mr. Chitor's cooperation is complete at that time, I'll set a  
25 schedule for the preparation of the presentence report and for

M771CHIP

1 the parties' submissions, and I will also set a sentencing  
2 date.

3 Mr. Street informs me that the date should be  
4 January 9th, because January 7th is a Saturday, so I'll amend  
5 my direction to ask for a letter on January 9th, or by  
6 January 9th. Does that work for everyone? Mr. Tilem first.

7 MR. TILEM: Yes, it does, your Honor.

8 THE COURT: And Mr. Cooper?

9 MR. COOPER: Yes, your Honor.

10 THE COURT: So let's turn to the question of bail now.

11 I received a letter from the government yesterday  
12 explaining that the parties are jointly proposing certain bail  
13 conditions. And the letter from the government -- let me just  
14 confirm with Mr. Tilem that that is the case and that the  
15 letter was accurate.

16 MR. TILEM: It is the case, your Honor, and the letter  
17 is accurate.

18 THE COURT: So based on my review of the information,  
19 the pretrial services report, the government's letter,  
20 Mr. Tilem's concurrence, I will accept the recommendation. I  
21 am satisfied that the proposed conditions will reasonably  
22 assure Mr. Chitor's appearance and the safety of others in the  
23 community, and that these are the least restrictive conditions  
24 that will satisfy these purposes.

25 So Mr. Chitor, I'm releasing you subject to the

M771CHIP

1 following conditions of release, which are the proposed  
2 conditions:

3 First, a \$250,000 personal recognizance bond signed by  
4 you and secured by \$40,000 in cash;

5 A second requirement is that the bond be signed or  
6 cosigned by two financially responsible persons;

7 Third condition is that travel be limited to the  
8 Continental United States—in other words, you can't travel  
9 outside the Continental United States;

10 Fourth, you must surrender all passports and travel  
11 documents and not apply for any new ones in any country or to  
12 any country; and

13 Finally, I will impose regular pretrial supervision.

14 Do you understand that if you fail to return to court  
15 for sentencing on the date and time that will be set, there are  
16 various consequences, none of them good? And I'll explain them  
17 in a minute, but you understand that you have a legal  
18 obligation to come back to court for your sentencing?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: So if you fail to return for sentencing:  
21 first, a warrant could be issued for your arrest; second, you  
22 would be guilty of a separate crime called bail jumping for  
23 which you could be sentenced to imprisonment and a fine  
24 separate and apart from and in addition to whatever sentence  
25 you might receive for the crimes to which you've just pleaded

M771CHIP

1 guilty; and third, in addition, anyone who signed the bond with  
2 you would be responsible for paying the full amount or the full  
3 unsecured amount, and that is 210,000.

4 In addition, if you commit any offense while you're  
5 released, you could be sentenced on that additional offense, in  
6 addition to whatever sentence would normally be imposed, to an  
7 additional term of imprisonment of not more than ten years if  
8 it is a felony and not more than one year if it is a  
9 misdemeanor. And that would follow, as I said, any other  
10 sentence of imprisonment. Do you understand that?

11 THE DEFENDANT: I do, your Honor.

12 THE COURT: Okay. That concludes everything I have on  
13 my agenda. Is there anything else, Mr. Cooper?

14 MR. COOPER: Yes, your Honor, two brief things.

15 One is, with respect to bail -- and I apologize, I did  
16 not include this in the letter -- we would request that the  
17 defendant be provided with one week to post the cash security  
18 and also be given 30 days to obtain the two co-signers.

19 THE COURT: Okay. Mr. Tilem, any objection to those  
20 courses of action?

21 MR. TILEM: I thought we had discussed two weeks to  
22 post the cash bail.

23 MR. COOPER: No, that's right. And I apologize, your  
24 Honor. I couldn't read my handwriting. Mr. Tilem is correct.

25 THE COURT: All right. So any objection, Mr. Tilem,

M771CHIP

1 to two weeks to provide the cash security and 30 days to obtain  
2 co-signers?

3 MR. TILEM: No objection, your Honor.

4 THE COURT: So I'll add those additional conditions.

5 And Mr. Cooper, you had another item?

6 MR. COOPER: Yes, your Honor. We had submitted to the  
7 Court a sealed application to seal the various documents with  
8 respect to today's proceeding, including the transcript, and  
9 also to provide for delayed docketing of this case, with  
10 certain exceptions to the sealing. I'm happy to discuss that  
11 if the Court has any questions.

12 THE COURT: Any objections, Mr. Tilem?

13 MR. TILEM: No, your Honor. In fact, I would join in  
14 that application.

15 THE COURT: All right. I have reviewed the  
16 application and I will grant the application.

17 Could I make one request of you. Could I ask one of  
18 you to order the transcript and have it sent to us.

19 MR. COOPER: Yes, your Honor.

20 THE COURT: Okay. Is there anything else, Mr. Tilem?

21 MR. TILEM: Not on behalf of the defendant, your  
22 Honor. Thank you.

23 THE COURT: Sure. Mr. Cooper, anything else?

24 MR. COOPER: No. Thank you very much, your Honor.

25 THE COURT: All right. Mr. Chitor, best of luck to



M771CHIP

1 you, and I will see you again at the time of sentencing, if not  
2 before.

3 THE DEFENDANT: Thank you, your Honor.

4 THE COURT: We're adjourned.

5 MR. TILEM: Thank you.

6 o0o

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25