

September 29, 2026

VIA FEDERAL EXPRESS AND EMAIL

Trent McCotter
Acting Deputy Attorney General
Office of the Deputy Attorney General
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530
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Re: Referral of Jina Choi for Criminal Investigation
***United States v. Shafi*, No. 4:25-cr-00258-YGR (N.D. Cal.)**

Dear Mr. McCotter:

I represent Abraham Shafi. This referral relates to *United States v. Shafi*, No. 4:25-cr-00258-YGR (N.D. Cal.), in which Shafi has separate criminal defense counsel. This referral asks the Department of Justice to open a criminal investigation of Jina Choi under 18 U.S.C. § 1001. It is based entirely on public filings in Shafi's criminal case. Every quotation below is taken from a public brief or a public declaration on the docket, and every citation identifies the public filing that contains it. The filings refer to Choi as "Attorney-1."

Choi joined the United States Attorney's Office for the Northern District of California (the Office) in December 2023. She became Chief of its Corporate and Securities Fraud Section in January 2024. Dkt. 80 ¶ 6 (declaration filed by the government with its opposition to Shafi's motion to dismiss). That section was handling the Shafi investigation. Dkt. 83 at 2 (Shafi's reply in support of his motion to dismiss). In July 2026, the FBI interviewed Choi about her role in that investigation. Shafi's reply brief quotes the interview memorandum: Choi said she "did not have any kind of role in the investigation." Dkt. 83 at 3. The same public briefs quote emails Choi wrote to the prosecution team in 2024. The quoted statements and the quoted emails do not match. That discrepancy is the reason for this referral.

What the Public Filings Show

Before she joined the Office, Choi was a lawyer for IRL, the company identified as the victim in the indictment. The government's declaration states that she "provided information on the procedural posture of the civil investigation, produced documents, and helped coordinate witness interviews." Dkt. 80 ¶ 5. Shafi's filings quote her own description of that work: she identified "potential sources of

evidence,” flagged “key witnesses,” and “facilitated” interviews. Dkt. 83 at 9 (quoting Dkt. 64 at 19). Shafi’s reply brief states that, as the alleged victim’s counsel, she urged the government to charge him. Dkt. 83 at 8.

The government’s opposition brief states that Choi was “recused from the matter from the date she joined the Office” and that she played “no role” in the case. Dkt. 79 at 7, 16. The line prosecutor on the case worked in Choi’s section until August 2024. Dkt. 80 ¶¶ 6–7. Shafi’s reply brief quotes the Branch Chief’s FBI interview on why that prosecutor was then moved: “to insulate her from a situation like this.” Dkt. 83 at 11. Choi left the Office in March 2025. Dkt. 80 ¶ 8. A grand jury indicted Shafi in August 2025. Dkt. 80 ¶ 10.

The government filed three of Choi’s 2024 emails as exhibits to its opposition and quoted them in its public brief. Shafi’s reply brief quotes them as well. As quoted in those briefs: on January 3, 2024, Choi sent the prosecution team a news article that asked whether IRL was “the next Facebook or a fraud.” Dkt. 83 at 2. On January 8, 2024, she asked the line prosecutor to “remind” her which FBI agent was handling the investigation, writing that she would be grateful for “any info!” Dkt. 83 at 5. On February 20, 2024, she asked the Chief of the Oakland Branch (the “Branch Chief”) for permission to add a senior prosecutor “to help move it along.” Dkt. 83 at 1, 6. The reply brief states that this prosecutor was one of the two who had opened the investigation. Dkt. 83 at 6. It also quotes the Branch Chief’s written response to Choi: she “shouldn’t be talking to anyone about this case within the office.” Dkt. 83 at 3.

The Interview Statements, Compared with the Emails

The government interviewed Choi on July 16, 2026, and the Branch Chief on July 17, 2026. Dkt. 83 at 12. According to Shafi’s reply brief, the government produced the FBI memoranda of those interviews on August 20, 2026, three days after it filed its opposition. Dkt. 83 at 4. The reply brief quotes the memoranda. The table below places the quoted interview statements next to the quoted emails. Each quotation appears in a public brief at the page cited.

Choi’s interview statements, as quoted in Shafi’s public reply brief	Choi’s 2024 emails, as quoted in the public briefs
She “did not have any kind of role in the investigation.” Dkt. 83 at 3.	“I talked to [her predecessor] and I wanted to see if it would be ok to add [him] to the IRL team to help move it along.” Dkt. 83 at 1, 6 (email of Feb. 20, 2024, to the Branch Chief).
She “did not have any substantive discussions with anyone about the SHAFI investigation	She asked the line prosecutor to “remind” her which FBI agent was handling the investigation and wrote that she would be

including those who were on the case team as well as those who were not.” Dkt. 83 at 13.	grateful for “any info!” The reply brief states that the answer came one minute later, and that Choi wrote back that she “thought [the agent] seemed very good.” Dkt. 83 at 2-3, 5 (emails of Jan. 8, 2024).
She “could not clearly recall who was on the case team.” The reply brief states that she also said she did not know who was assigned to the investigation. Dkt. 83 at 14.	The reply brief states that her January 3, 2024 email went to the two prosecutors then on the case and to the colleague she later proposed adding. Dkt. 83 at 2, 14. Her February 20 email said: “I haven’t mentioned it to [the line prosecutor] yet.” Dkt. 83 at 6.

The reply brief quotes the interview memorandum on one more point. Choi kept a written tracker of her section’s caseload, and “the SHAFI investigation was listed in the tracker.” Dkt. 83 at 7. The memorandum, as described in the reply brief, also refers to an April 20, 2024 email to Choi about the tracker. The reply brief states that no such email has been produced or filed. Dkt. 83 at 7-8.

Materiality

If Choi’s interview statements were false, they were material. She made them in an FBI interview, in a matter within the jurisdiction of the Department of Justice. A statement is material if it has “a natural tendency to influence, or [is] capable of influencing, the decision of the decisionmaking body to which it was addressed.” *United States v. Gaudin*, 515 U.S. 506, 509 (1995) (quoting *Kungys v. United States*, 485 U.S. 759, 770 (1988)). The interview concerned the question at the center of Shafi’s pending motion to dismiss: whether Choi had any role in the investigation. The government’s opposition told the court she did not. Dkt. 79 at 7, 16. The statements therefore bore on two decisions, the Department’s and the court’s.

Motive

The public record permits an inference about motive, and that inference should be examined. Choi’s former client was the alleged victim in this case. Shafi’s reply brief states that she urged the government to charge him before she joined the Office. Dkt. 83 at 8. The quoted emails show her sending the team commentary about the case, asking who was investigating it, and proposing a prosecutor to “help move it along.” Dkt. 83 at 1-3, 6. The quoted warning from the Branch Chief shows that the Office saw the problem at the time: because Choi had “represented the [alleged] victim,” she could not “be seen even implicitly as advocating for anything.” Dkt. 83 at 3, 7. The discrepancy between Choi’s quoted interview statements and her quoted emails calls her motive into question. An investigation can determine whether her statements reflect a failure of memory or an intent to conceal her contacts with the case.

Request

We ask the Department to investigate whether Choi violated 18 U.S.C. § 1001. We also ask it to investigate whether she acted with others to influence the grand jury's consideration of this case, in violation of 18 U.S.C. §§ 371 and 1503 or any other federal law. The public filings raise these questions and cannot answer them. The filings reflect government interviews of two witnesses, Choi and the Branch Chief. Dkt. 83 at 12. They do not reflect an interview of the prosecutor Choi's email says she "talked" to, or of the ethics official referenced in the quoted email exchange. Dkt. 83 at 6-7, 15.

Copies of the cited public filings are enclosed herewith.

Very truly yours,

SWEIGART MURDOCK, LLP

By:



Jesse D. Franklin-Murdock

Encls.: Dkts. 79, 80, 83

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INTRODUCTION

On April 13, 2023, the United States Attorney's Office for the Northern District of California (the Office) opened an investigation into allegations that Abraham Shafi, the CEO of Get Together Inc., lied to investors during a Series C private offering two years prior. The investigation opened upon learning information from the Securities and Exchange Commission ("SEC"), which initiated a civil investigation in late 2022 into the same conduct. The Office staffed the investigation with prosecutors in both the Oakland Branch and the Corporate and Securities Fraud section. In December 2023, Attorney 1, one of the attorneys representing IRL in connection with the SEC investigation, joined the Office and later became the Chief of the Corporate and Securities Fraud section. The Office recused Attorney 1 from the matter immediately, which was supervised instead by the Chief of the Oakland Branch. When Shafi's counsel at the time raised concerns about the appearance of a conflict based on Attorney 1's former representation of IRL, the Office took further steps to ensure impartiality. One prosecutor (AUSA 1 in Shafi's motion) was moved out of Attorney 1's section and no longer had any cases supervised by Attorney 1. Additionally, supervision of the case was removed from the Office entirely in August 2024; going forward the case was supervised by the Fraud Section (now the White Collar and Corporate Enforcement Section) of the Department of Justice's Criminal Division in Washington, D.C. In March 2025, Attorney 1 left the Office. In August 2025, following approval of the proposed charges by the Fraud Section, the Grand Jury returned an eight-count Indictment charging Shafi with wire fraud, securities fraud, and obstruction of justice.

These are the facts that Defendant Abraham Shafi claims amount to a conflict so severe that it requires the unprecedented step of dismissing the Indictment. He is wrong. To the extent there was even an appearance of conflict in this case, the significant steps the Office took were sufficient to put it to rest.¹ Fundamentally, Shafi cannot show that the investigation into his conduct and the ultimate decision to present charges to a Grand Jury was unfair or that the Office's representation violates any ethical rule. Attorney 1 played no role in the case on behalf of the government: Attorney 1 had no substantive

¹ Shafi does not argue the existence of an actual conflict as none of the facts support such a claim. His motion is predicated solely on the appearance of a conflict, which is what the government addresses herein.

involvement on the case upon joining the Office, she did not supervise the case, she did not review or approve the charges that were proposed seven months after she left the Office, and she had no influence over any of the prosecutors who conducted the investigation or presented the charges to the Grand Jury. Nor has Shafi demonstrated that members of the trial team would be unable to examine Attorney 1 at trial just because she is a former colleague. Shafi's request to dismiss the Indictment is unsupported by the facts and the law. It should be denied.

BACKGROUND

A. Abraham Shafi founded Get Together Inc., developer of the mobile app IRL, which raised \$170 million in Series C investments.

In 2018, Abraham Shafi and his cofounder created Get Together Inc., a tech start up that developed and marketed IRL, a social media app whose vision was to connect online users “in real life”—“IRL,” in internet slang—through in person interactions. In 2018, IRL raised an initial \$8 million in funding including from Investor 2² and Investor 3 – both venture capital firms that then held seats on the Board of Directors. In 2020, Investor 2 led the Series B fundraise, which garnered another \$16 million. In 2021, Shafi and IRL again solicited investors through a Series C fundraise from March to June of that year. The round was successful, yielding a significant \$150,000,000 investment from Investor 1 and a further \$20 million from Investor 2.

B. After the SEC opened an investigation into whistleblower allegations that IRL was inflating its user metrics, IRL retained Attorney 1.

In mid-2022, things started to unravel for Shafi and IRL. Media reports based on information obtained from company insiders suggested that IRL's user figures were inflated and that the only individuals with full access to the true user data were Shafi's family members who were employed by IRL in key engineering positions.³ Subsequent to these media reports, the SEC opened an investigation into whether IRL made false statements to investors regarding its user metrics. On August 22, 2022, the SEC issued a subpoena to IRL. Dkt. 64, Def.'s Mot. to Dismiss, Ex. A, SEC Subpoena. Shafi was not himself

² Investor 1 and Investor 2 as used herein correspond to the entities referenced in the Indictment. See e.g., Dkt. 1, Indictment ¶¶ 6-7.

³ Matousek, Mark and Efrati, Amir. “SoftBank-Backed Messaging App IRL Says It Has 20 Million Users. Some Employees Have Doubts About That” *The Information*. May 12, 2022, available at <https://www.theinformation.com/articles/softbank-backed-messaging-app-irl-says-it-has-20-million-users-some-employees-have-doubts-about-that> (last accessed Aug. 16, 2026).

subject to this initial subpoena, though he (along with several of his family members who also worked at IRL) were identified as “Specified Individuals” whose documents may be responsive to the requests. *Id.* at 5.⁴ The subpoena required the production of various categories of documents for a period of January 1, 2020 through the present and asked for documents and communications related to bots or inauthentic user activity as well as how IRL measured or analyzed user activity metrics. *Id.* at 4, 8.

A few days later, IRL engaged Attorney 1, who was a partner at Firm 1, to represent it in connection with responding the SEC subpoena. Dkt. 64, Def.’s Mot. to Dismiss, Ex. B, Engagement Letter. Attorney 1 did not, however, represent Shafi, individually. *See id.* The engagement letter is clear that Firm 1’s client was the company, IRL, and not any individual. *See id.* It does not appear that Shafi had individual counsel at this time.⁵ IRL also engaged Firm 3, who had previously provided outside counsel services for IRL, to aid in its internal investigation and response to the SEC subpoenas. In October 2022, the SEC issued subpoenas to some of the “Specified Individuals” listed in the August 2022 SEC subpoena to IRL. *See* Dkt. 64, Def.’s Mot. to Dismiss, Ex. E, January 2023 Presentation at 4-5. Firm 1 represented one of those individuals. *Id.* at 5.

In November 2022, IRL hired a second law firm, Firm 2, to replace Firm 3 in responding to the SEC. Dkt. 64, Def.’s Mot. to Dismiss, Ex. C, Engagement Letter. Unlike Attorney 1 and Firm 1, Firm 2 *did* represent Shafi personally. *See id.* at 1, ¶ 1. Firm 2 also understood that Firm 1 represented the corporate entity IRL, and one of the “Specified Individuals” who was not Shafi. *Id.* Firm 2 agreed to represent the other “Specified Individuals” identified in the SEC subpoena. *Id.*

On November 10, 2022, the SEC issued a subpoena to Incent Ad Company 1,⁶ a marketing firm specializing in incent advertising. Declaration of Sailaja M. Paidipaty (“Paidipaty Decl.”) (filed concurrently with this briefing), Exhibit 1, November 2022 SEC subpoena. The subpoena requested documents concerning Incent Ad Company 1’s interactions and communications with both IRL and Entity

⁴ This page references for Exhibit A correspond to the page number of the overall PDF, which is one file combining a cover letter and subpoena.

⁵ Shafi asserts that “Attorney 1 advised Shafi in his capacity as IRL’s CEO” but does not cite to anything in the record supporting the assertion. *See* Dkt. 64, Def.’s Mot. to Dismiss at 3.

⁶ Incent Ad Company 1 as used herein corresponds to an entity referenced in the Indictment. *See e.g.*, Dkt. 1, Indictment ¶ 8.

2, a company used by IRL to place incent ads on IRL's behalf. *Id.* at 7.

On December 19, 2022, the SEC issued subpoenas directly to Shafi and five other IRL employees, four of whom were his family members. Paidipaty Decl., Exhibit 2, December 2022 SEC subpoena. *See also* Dkt. 64, Def.'s Mot. to Dismiss, Ex. E, January 2023 Presentation at 4. The Subpoena expanded the scope of the SEC's inquiry; in addition to topics related to the bots allegations, the SEC requested documents concerning "IRL's classification of operating expenses in sub-line items (such as team/personnel/people, infrastructure, PR/marketing/growth, etc.)" *Id.* at 10. The SEC specified that responsive materials include documents related to "how IRL classified payments made to Entity 2 and Entity 1."⁷ *Id.* It appears that Firm 2 represented Shafi and each of these individuals in connection with their personal SEC subpoena responses. *See* Dkt. 64, Def.'s Mot. to Dismiss, Ex. C, Engagement Letter; *see also* Dkt. 64, Def.'s Mot. to Dismiss, Ex. E, January 2023 Presentation at 4.

By December 2022, the SEC's investigation had therefore expanded beyond the original allegations regarding bots and inauthentic users, turning also to allegations of misconduct relating to IRL's representation of its marketing spending. The record reveals that, by December 2022, the SEC had already honed in on Entity 1, the relationship between IRL and Incent Ad Company 1, and incent advertising as core issues.

C. IRL and its attorney's conducted an internal investigation into the SEC allegations.

The government is not privy to most of the steps taken by Attorney 1 and Firm 2 in the course of their representation of IRL, which are generally covered by attorney-client privilege. The government understands from documents provided by IRL, that Attorney 1 and Firm 2 engaged in an internal investigation to understand the facts and respond to the SEC allegations and subpoenas. *See* Dkt. 64, Def.'s Mot. to Dismiss, Ex. S, Keystone Report; Ex. U, June 23, 2023 IRL Board Minutes and Resolution. The government also understands that Attorney 1 assisted with the production of documents to the SEC, and had numerous conversations with the attorneys for the SEC. Paidipaty Decl. ¶ 5.

The government is also aware that following concerns from the SEC regarding potentially deleted data responsive to the SEC subpoena, between November 2022 and April 2023, lawyers working on the

⁷ Entity 1 as used herein corresponds to an entity referenced in the indictment. *See e.g.*, Dkt. 1, indictment ¶ 10.

1 IRL internal investigation attempted to image phones belonging to Shafi, as well two of his cousins, his
 2 brother, and his sister.. *See* Dkt. 1, Indictment ¶ 32; *see also* Dkt. 64, Def.’s Mot. to Dismiss, Ex. E.
 3 January 2023 Presentation at 57-68. The government does not know Attorney 1’s role in the collection
 4 of the devices. The Board hired a consultant to conduct a forensic analysis of these devices. Paidipaty
 5 Decl., Ex. 4, Stroz Forensic Report. The analysis concluded that prior to the date that the Board had the
 6 phones imaged, all but Shafi’s sister had restored their phones to a backup from a prior point in time.⁸ *See*
 7 *id.*

8 Evidence was also uncovered about potential accounting errors in the description of payments to
 9 Entity 1 in IRL’s books and records. In response to this, on September 28, 2022, Shafi wrote to the Board
 10 of Directors representative from Investor 1, regarding the error. *See* Dkt. 1, Indictment ¶ 27. He
 11 characterized the problem as a categorization issue: the company had put most of its paid advertising
 12 spend under “Infrastructure” but it should have been in “Growth” of the profit/loss statement. *Id.* Shafi
 13 reassured Investor 1, though, that overall expenditures remained the same, it was merely that line items
 14 were shifting from one bucket to another. *Id.* Shafi later told the Board representative from Investor 1
 15 that the paid acquisition spend had been characterized under “Infrastructure” because the majority of it
 16 was spent on SMS ads, which require extensive bandwidth to support. *Id.* This was false. Even while
 17 under investigation by the SEC, Shafi lied about the nature of this spending.

18 **D. In January 2023, IRL’s Board of Directors appointed a Special Committee to**
 19 **continue the internal investigation, which retained Attorney 1 as its counsel.**

20 In January 2023, Firm 2 presented the preliminary results of its internal investigation to the Board
 21 of Directors. The presentation covered five “Key Issues Identified by the SEC:” 1) “Active User
 22 Reporting, Fake Users and Bots;” 2) “Expense Classifications,” specifically whether “infrastructure and
 23 growth expenses” were misclassified and whether there was intent to defraud; 3) Deletion of a “Jira
 24 Ticket” regarding “Creation of Bot Accounts;” and 4) “Employee Complaints” of whistleblower
 25

26 ⁸ Restoring a phone deletes all current data and content, including data, settings, contacts,
 27 messages, etc. and will restore all settings to a previous backup that had been previously saved
 28 elsewhere, such as a cloud storage space. The physical device, then, only retains information from that
 backup. For example, if in January 2023 a user restored their device to a backup from January 2022, the
 device would then only contain data through January 2022 and would not retain any data that may have
 previously been on the phone post-dating January 2022.

1 retaliation. *See* Dkt. 64, Def.’s Mot. to Dismiss, Ex. E, January 2023 Presentation.

2 On the question of IRL’s use of bots, the presentation noted that Cloudflare (a tool used by IRL to
3 detect bot activity) reported only 3% human traffic in July of 2022, but by 2023, reported 87% human
4 traffic. *Id.* at 17. The presentation went on to say that while “it is too early to tell this with certainty”
5 there was an initial impression “that Cloudflare’s data has only limited utility for spotting bots on IRL.”⁹
6 The presentation goes on to cover numerous internal communications at IRL on the topic of Monthly
7 Active Users and bots. *See id.* The Board was not, however, told that the bot allegations were false.

8 The presentation next covered a topic it called “Related Party Transactions,” which included
9 payments made to Entity 1, a company run by Individual 1 before and after he became an IRL employee.
10 *Id.* at 40-43. This section included Individual 1’s “conduct in mischaracterizing expenses” and asked
11 “whether [Individual 1] created false invoices to create the impression that IRL had higher infrastructure
12 costs rather than growth expenses.” *Id.* at 40. The Board was shown numerous communications reflecting
13 \$2,000,000 invoices that IRL paid to Entity 1. *Id.* at 42. The Board was not told that these payments were
14 made for incent ads.

15 From there, the next topic covered “Expense Classification,” and included questions about IRL
16 and Shafi’s representations of certain expenses as “growth” or “infrastructure” and Shafi’s representation
17 to investors that its growth was “organic.” *Id.* at 44-56. The Board was informed of Shafi’s
18 representations that ads spend was “~50k” which he said was “incredible[*sic*] minimal.” *Id.* at 46. The
19 Board was also shown communications from Shafi to a client services manager at Incent Ad Company 1
20 from April 2021 discussing invoices of nearly \$500,000 for advertising, and another communication from
21 Individual 1 noting that advertising spend in July 2022 would be over \$1 million. *Id.* at 48-49. The Board
22 saw a communication where Shafi ordered Individual 1 to create a fake invoice and coached him on how
23

24 ⁹ The government understands that over the course of its internal investigation, IRL engaged two
25 expert consultants to evaluate the allegation that a large proportion of IRL’s users were automated bots.
26 Firm 3 proposed engaging Keystone Strategy to evaluate the bots issue. *See* Dkt. 64, Def.’s Mot. to
27 Dismiss, Ex. E, January 2023 Presentation at 19-20. In December 2022, after Firm 2 replaced Firm 3, it
28 engaged Celerity Consulting Group to conduct a similar analysis. *See id.* . The January 2023
presentation suggests that Celerity’s analysis was not yet completed at the time of the presentation. The
government ultimately received the completed Celerity analysis from Shafi’s prior counsel. Paidipaty
Decl., Ex. 3, Celerity Report. The analysis assessed the efficacy of Cloudflare as a tool to identify bot
accounts; it did not undertake an independent evaluation of IRLs user data to determine what percentage
constituted automated traffic.

1 to cover up the fraud. *Id.* at 54-55. But in all of this, the Board was never informed that the majority of
 2 the ad spending was on incent ads, rather than the SMS ads that Shafi had claimed it was for.

3 After covering the remaining topics, the presentation summarized updates from the SEC. These
 4 included the SEC's concerns regarding the payments to Entity 1 and a request for further investigation on
 5 this point. *Id.* at 76.

6 A few days later, the Board responded to this presentation by appointing a special committee of
 7 independent board members to carry the internal investigation forward. *See* Dkt. 64, Def.'s Mot. to
 8 Dismiss, Ex. F, January 25, 2022 Board Minutes. The members of the Special Committee included the
 9 outside directors. *Id.* They were to have all the powers of the Board as it related to the investigation. *Id.*
 10 To assist its investigation, the Special Committee retained Attorney 1 from Firm 1 who at that point
 11 terminated her previous representation of IRL. *See* Dkt. 64, Def.'s Mot. to Dismiss, Ex. I, March 20, 2023
 12 Email. Since the Board had appointed the Special Committee to carry the investigation forward, Attorney
 13 1 apparently informed Firm 2 that she would handle further communications with the SEC. *Id.*

14 **E. The United States Attorney's Office opened a criminal investigation into IRL and**
 15 **Shafi.**

16 On or about April 10, 2023, the Office opened a criminal investigation into the same conduct being
 17 investigated by the SEC: allegations that IRL's user metrics were falsified, as well as allegations that of
 18 fraud in connection with IRL's marketing spending. Paidipaty Decl. ¶ 2. By that point, the SEC had
 19 already taken numerous depositions and questioned witnesses extensively on incent ads, the issue
 20 ultimately at the heart of the criminal Indictment. Paidipaty Decl. ¶ 3.

21 The Office co-staffed the investigation with AUSAs assigned to both the Oakland Branch Office
 22 (though a mostly remote company, IRLs corporate address was in Berkeley) and the Corporate and
 23 Securities Fraud section. *Id.* But supervision of the investigation rested with the Oakland Branch Chief.
 24 *Id.*

25 In July 2023, a few months after opening the investigation, the government sought and obtained a
 26 search warrant authorizing a search of Shafi and his home in Hawaii. Paidipaty Decl., Ex. 4, In the Matter
 27 of the Search of Property in Hawaii, Mag No. 23-1091 KJM. The listed offenses of investigation included
 28 wire fraud and obstruction of justice. *Id.* The affidavit supporting the application for the warrant noted

1 that the “FBI is investigating . . . potential misrepresentations made by Shafi and others at IRL in
 2 conjunction with rounds of fundraising” including “statements regarding the Company’s user acquisition
 3 channels and the amount of money that the company spent on advertising and marketing.” *Id.* ¶ 29. The
 4 warrant went on to outline that the FBI was investigation Shafi’s use of incent advertising and his
 5 misrepresentation about that advertising to potential investors. *Id.* ¶ 30. The affiant described reviewing
 6 numerous communications from Shafi to incent advertisers in which he spent significant amounts of
 7 money on incent ads. *Id.* ¶¶ 30-33. The affiant also described Shafi’s misrepresentations to investors,
 8 including the claim that IRL spent “50k” on user acquisition. *Id.* ¶ 25. Finally, the affiant described
 9 evidence suggesting that Shafi had restored his phone to a previous backup file in order to delete
 10 responsive data. *Id.* ¶ 58. The warrant authorized the seizure of various categories of information,
 11 including “communications with, or concerning Incent Ad Company 1, Incent Ad Company 2, or other
 12 incent advertising firms” and “records . . . concerning altering, tampering with, or destroying evidence.”
 13 *Id.* at Attachment B.

14 The investigative team did not contact counsel for IRL, including Attorney 1, until after the
 15 execution of the warrant. Paidipaty Decl. ¶ 4. After that date, and in the course of the investigation, the
 16 investigative team reached out to counsel for IRL, including Attorney 1, who provided information on the
 17 procedural posture of the civil investigation, produced documents, and helped coordinate witness
 18 interviews. Paidipaty Decl. ¶ 5.

19 By July 2023, before ever contacting counsel for IRL or Attorney 1, the government had therefore
 20 already collected substantial evidence demonstrating that Shafi had misrepresented IRL’s marketing spend
 21 and user acquisition channels to investors, and that he had obstructed justice by restoring his phone to a
 22 previous backup. These allegations would later form the heart of the eight-count criminal indictment.

23 **F. The Special Committee’s investigation revealed misconduct by Shafi, who was then**
 24 **terminated as CEO.**

25 One of the issues that the Special Committee investigated was Shafi’s use of his corporate credit
 26 card for millions of dollars in personal expenses. By April 2023, the Board learned that Shafi had spent
 27 \$2 million in IRL funds on personal expenses and had paid back approximately \$1 million to IRL. Dkt. 1,
 28

Indictment ¶¶ 28-29. *See* Dkt. 64, Def.'s Mot. to Dismiss, Ex. X, June 20, 2023 Board Minutes.¹⁰ The most egregious example of Shafi's continued personal spending with IRL funds involved Shafi's April 2022 wedding. Dkt. 1, Indictment ¶¶ 28-29. When the Special Committee learned about this misconduct in April 2023, they voted to terminate Shafi as CEO. *See* Dkt. 64, Def.'s Mot. to Dismiss, Ex. X, June 20, 2023 Board Minutes.

The Special Committee also continued to investigate the bots issue. In May 2023, it engaged Keystone Strategy to conduct a forensic review of IRL's historic user data. The IRL Board initially approached Keystone in the fall of 2022, but ultimately retained Celerity instead. *See* Dkt. 64, Def.'s Mot. to Dismiss, Ex. E, January 2023 Presentation at 19. Keystone issued its report in June 2023. *See* Dkt. 64, Def.'s Mot. to Dismiss, Ex. S, Keystone Report. The main findings of the Keystone Report were (1) a significant portion (over 95%) of historical active users on the platform after June 2022 were likely bot accounts and (2) based on data pulled from IRL's investor dashboard, daily active users plummeted from approximately 2.5 million at the end of April 2023 (when Shafi was fired as CEO) to approximately 1 million by May 11, 2023 and remained under 150,000 daily active users from May 14, 2023 until the publishing of the report in late-June 2023. *Id.*

G. In June 2023, the Special Committee presented to the Board on the findings of its investigation, which then voted to dissolve the company.

On June 20, 2023, Attorney 1 made a presentation to the Board in which she summarized the results of the Special Committee's internal investigation. Dkt. 64, Def.'s Mot. to Dismiss, Ex. X, June 20, 2023 Board Minutes. Attorney 1 reviewed the findings of the Keystone report, including that as of May 2022, 95% of the Company's users were likely bots. *Id.* She also covered evidence that Shafi lied to investors regarding its marketing spend and user acquisition costs and that Shafi spent more than \$2 million in unreimbursed personal charges on his company credit card. *Id.* On June 23, 2023, the Board held a further meeting. *See* Dkt. 64, Def.'s Mot. to Dismiss, Ex. W, June 23, 2023 Board Minutes. At this meeting, the Board voted to remove Shafi as a director. *Id.* The Board, believing that the vast majority

¹⁰ *See also* Matousek, Mark, "IRL Suspended CEO Shafi After Reported Pattern of Misconduct; Acting CEO Named." *The Information*, Apr. 30, 2023, available at <https://www.theinformation.com/articles/irl-suspended-ceo-shafi-after-reported-pattern-of-misconduct-acting-ceo-named> (last accessed Aug. 16, 2026).

1 of the users were bots, also voted to dissolve the company. *Id.*

2 **H. In September 2023, Attorney 1 sent a letter to the SEC, responding to its request for**
 3 **IRL’s view on whether the SEC should pursue a civil case against IRL.**

4 At some point, the SEC requested that IRL provide its view on whether it should be charged in
 5 connection with “Mr. Shafi’s misrepresentations to Series C investors regarding advertising and marketing
 6 expenses and his use of investor proceeds for personal expenses.” Dkt. 64, Def.’s Mot. to Dismiss, Ex. J,
 7 September 2023 Letter to SEC at 1. On September 29, 2023, Attorney 1 sent a letter to the SEC (and the
 8 SEC alone) explaining why Get Together, Inc. should not be charged. *Id.* Attorney 1 made several
 9 arguments. First, she informed the SEC that the company had dissolved and was now defunct, and so
 10 would never again violate securities laws. *Id.* at 1-2. Second, she highlighted IRL’s cooperation with the
 11 SEC, including the creation of the Special Committee, the suspension of Shafi and two family members
 12 after learning about their role in the misconduct, briefing provided to the SEC regarding Shafi’s conduct,
 13 the waiver of privilege over key documents, and the facilitation of SEC witness interviews. *Id.* at 2-5.

14 Attorney 1 also recommended that the SEC “coordinate” its civil investigation with the DOJ’s
 15 investigation into the same set of facts. Attorney 1 said that IRL would continue to cooperate with both
 16 investigations. *Id.* at 6-7. She did not recommend that Shafi or anyone else be criminally charged. *Id.*
 17 The Office did not receive a copy of Attorney 1’s letter until it reviewed the exhibits Shafi submitted in
 18 connection with this motion.

19 **I. In December 2023, Attorney 1 joined the United States Attorney’s Office, which**
 20 **took several actions to mitigate any appearance of a conflict of interest.**

21 In December 2023, Attorney 1 joined the United States Attorney’s Office for the Northern District
 22 of California as an Assistant United States Attorney, and the following month became Chief of the
 23 Corporate and Securities Fraud Section. Paidipaty Decl. ¶ 6. Attorney 1 did not supervise the
 24 investigation into Abraham Shafi. The investigation was supervised by the Chief of the Oakland Branch.
 25 *Id.* ¶ 2. Attorney 1 did initially supervise AUSA 1, one of the AUSAs on the investigative team, who at
 26 the time was assigned to the Corporate and Securities Fraud Section. *See Id.* ¶ 2, 6. But AUSA 1 never
 27 discussed the substance of the investigation with Attorney 1. *Id.* ¶ 9.

28 The government has identified three relevant communications that Attorney 1 sent regarding the

1 IRL investigation.¹¹ First, on January 3, 2024, Attorney 1 forwarded a link to a Financial Times article
2 concerning IRL to the IRL case team. Paidipaty Decl., Ex. 6, Jan. 3, 2024 Email. There was no
3 commentary other than that it appeared to be about IRL; however Attorney 1 could not access the full
4 article because of a paywall. *Id.* AUSA 1, in response, attached the full publicly available article. *Id.*
5 The response did not include any substantive discussion of IRL or the Office’s investigation. *Id.* In
6 February 2024, Attorney 1 sent an email to the Chief of the Oakland Branch, in which she asked whether
7 another AUSA in the Corporate Securities Fraud section should be assigned to the IRL investigation in
8 order to “move it along.” Paidipaty Decl., Ex. 7, February 20-21, 2024 Email. The communication did
9 not concern the substance of the case, and the Chief of the Oakland Branch responded by telling her that
10 she should not be discussing the matter. *Id.* In a subsequent email, the Chief of the Oakland Branch
11 explained that while Attorney 1 could have limited discussions on staffing and bandwidth of AUSAs in
12 Corporate and Securities Fraud working on matters from which she was recused, she could not have
13 substantive discussions and it was imperative that the Office avoid any appearance of a conflict of interest.
14 *Id.* Attorney 1 was recused from the matter from the date she joined the Office, and remained recused for
15 her entire tenure. Finally, the government identified one additional email in which Attorney 1 asked for
16 the name of the case agent assigned to the IRL investigation. Paidipaty Decl., Ex. 8, January 8, 2024
17 Email.

18 On May 14, 2024, then-counsel for Abraham Shafi sent a letter to the Office expressing concern
19 that recusal of Attorney 1 might not be “sufficient to guard against conflict of interest and appearance of
20 impartiality concerns,” and asking if instead recusal of the entire Office was required. *See* Dkt. 64, Def.’s
21 Mot. to Dismiss, Ex. O, May 16, 2024 Letter. The concern raised was stated as follows: “For a jury to
22 hear from a government witness who both previously investigated Mr. Shafi and currently supervises the
23 AUSAs prosecuting Mr. Shafi would raise questions about the appearance of impartiality and put the
24 Office in the untenable position of having a stake in advancing the interests of a particular witness.” *Id.*
25 at 4.

26 In response to this letter, the Office took further steps to mitigate any potential appearance of
27

28 ¹¹ In producing these documents, the government is not waiving any applicable privileges it
could assert over other internal records and communications.

impropriety. Dkt. 64, Def.’s Mot. to Dismiss, Ex. P, Aug. 18, 2024 Letter. First, AUSA 1, the only member of the investigative team supervised by Attorney 1, was moved to a different section, and so removed from Attorney 1’s supervision entirely. *Id.*; Paidipaty Decl. ¶ 7. Second, supervision of the entire matter was moved from the Oakland Branch, and from the Office entirely, to the Fraud Section of the Department of Justice Criminal Division. *Id.* Finally, an attorney sitting in and supervised by the Fraud Section was brought onto the prosecution team. *Id.*

J. In March 2025, Attorney 1 left the United States Attorney’s Office; in August 2025, the grand jury charged Shafi with fraud and obstruction of justice.

In March 2025, Attorney 1 left the United States Attorney’s Office. Paidipaty Decl. ¶ 7. During her time at the office, Attorney 1 never supervised the investigation into Shafi, the investigative team never had substantive conversations with her regarding the case, and ultimate charges were filed months after Attorney 1 left the Office.

The government presented this case to the Grand Jury in August 2025, which resulted in the return of an eight-count indictment. Those charges were reviewed and approved by management of the Fraud Section. Paidipaty Decl. ¶ 10.

LEGAL STANDARDS

A. Recusal of United States Attorney’s Offices

The Ninth Circuit recently held that disqualifying “an entire office of an Executive Branch attorney” represents a “sweeping interference” with another branch of government which is “seldom warranted.” *United States v. Williams*, 68 F.4th 564, 572 (9th Cir. 2023); *see also United States v. Bolden*, 353 F.3d 870, 878-9 (10th Cir. 2003) (holding that “the disqualification of Government counsel is a “drastic measure and a court should hesitate to impose it except where necessary.”). Even the lesser interference of “[d]isqualification of a single prosecutor has been ordered” only “in limited circumstances, such as when the prosecutor would be a witness at trial . . . or has an actual conflict of interests[.]” *United States v. Thanh Viet Cao*, 526 F. App’x 798, 800 (9th Cir. 2013) (citing *see United States v. Prantil*, 764 F.2d 548, 552–53 (9th Cir.1985) and *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 809 (1987)).

In *Williams*, the Ninth Circuit explained that “[b]ased on separation-of-powers principles and the

1 consensus among courts . . . disqualification of an entire U.S. Attorney's Office is an extreme remedy—
2 only appropriate in the most extraordinary circumstances.” 68 F.4th at 573. Indeed, “[d]isqualification
3 of an entire United States Attorney’s Office is nearly unprecedented.” *United States v. Manna*, Nos. CR
4 88–0239 DRD, CIV 97–2034 DRD, 2006 WL 3063456, at *8 (D.N.J. Oct. 25, 2006) (citing *United States*
5 *v. Whitaker*, 268 F.3d 185 (3d Cir. 2001)). “[E]very circuit court that has considered the disqualification
6 of an entire United States Attorney’s office,” including the Ninth Circuit, “has reversed the
7 disqualification.” *Williams*, 68 F.4th at 573 (referencing *Bolden*, 353 F.3d at 879; *Whittaker*, 268 F.3d
8 185; *United States v. Vlahos*, 33 F.3d 758 (7th Cir.1994); *United States v. Caggiano*, 660 F.2d 184 (6th
9 Cir.1981)).

10 *Williams* announced a two-part test for disqualifying an entire United States Attorney’s Office:
11 “First, a district court must find a strong factual predicate for blanket disqualification. Second, a district
12 court must determine that the U.S. Attorney’s Office’s continued representation of the government will
13 result in a legal or ethical violation.” 68 F.4th at 573. The court’s finding must include a determination
14 that “any misconduct or conflict so pervades the office that less intrusive remedies would be inadequate
15 to safeguard against a legal violation.” *Id.* The Ninth Circuit emphasized that it will only “thwart the
16 will” of the Executive branch when its “behavior is not in accordance with law.” *Id.* (internal citations
17 omitted).

18 “Whether an entire United States Attorney’s Office should be disqualified is a question to be
19 determined on a case-by-case basis by analyzing the requirements of the California Rules of Professional
20 Conduct, the American Bar Association (“ABA”) Model Rules of Professional Conduct, and state and
21 federal cases.” *United States v. Nosal*, No. C 08-00237 MHP, 2009 WL 482236, at *2 (N.D. Cal. Feb.
22 25, 2009). In general, “[t]here is no controlling standard in the Ninth Circuit for imputation of a conflict
23 where a private defense attorney joins a prosecutors’ office.” *Id.* But “Ninth Circuit authority has refused
24 to extend cases that apply the imputed disqualification rule to private law firms equally to government
25 agencies.” *Id.* (citing *Matter of Grand Jury Investigation of Targets*, 918 F.Supp. 1374, 1378 n. 11
26 (S.D.Cal.1996) (noting that the imputed disqualification rule assumes that the client can hire another law
27 firm, whereas in the case of government agencies, “the only choices for federal prosecution are the local
28 AUSAs, Department of Justice attorneys, or special prosecutors.”)).

1 The Ninth Circuit explained that “the generally accepted remedy,” for a conflict of interest “is to
 2 disqualify a specific Assistant United States Attorney, not all the attorneys in the office.” *Williams*, 68
 3 F.4th at 574 (citing *Bolden*, 353 F.3d at 879); *see also*, *Nosal*, 2009 WL 482236, at *4; *United States v.*
 4 *Rodella*, 59 F. Supp. 3d 1331, 1348–49 (D.N.M. 2014).

5 **B. Dismissal of an indictment**

6 “A district court may dismiss an indictment under its inherent supervisory powers (1) to implement
 7 a remedy for the violation of a recognized statutory or constitutional right; (2) to preserve judicial integrity
 8 by ensuring that a conviction rests on appropriate considerations validly before a jury; and (3) to deter
 9 future illegal conduct.” *United States v. Bundy*, 968 F.3d 1019, 1030 (9th Cir. 2020) (internal quotations
 10 omitted). “Dismissal under the court’s supervisory powers for prosecutorial misconduct requires (1)
 11 flagrant misbehavior and (2) substantial prejudice.” *United States v. Kearns*, 5 F.3d 1251, 1253 (9th Cir.
 12 1993); *accord* *United States v. Ross*, 372 F.3d 1097, 1110 (9th Cir. 2004). Dismissing an indictment is a
 13 “drastic remedy” and it is “disfavored.” *Ross*, 372 F.3d. at 1110 (citing *United States v. Jacobs*, 855 F.2d
 14 652, 655 (9th Cir. 1988)). A district court may dismiss an indictment as an “appropriate sanction for a
 15 constitutional violation only where less drastic alternatives are not available.” *Kearns*, 5 F.3d at 1254.
 16 The government is aware of no case, and the defendant cites no case, where an indictment was dismissed
 17 because of an alleged conflict of interest, either actual or apparent.

18 **ARGUMENT**

19 Shafi claims that the indictment must be dismissed because Attorney 1 at one point represented
 20 IRL and the IRL special committee, and at another point worked for the United States Attorney’s Office
 21 for the Northern District of California. But Shafi has not pointed to one ethical principle that would be
 22 violated by the Office’s continued representation. And that is because there is no ethical violation.
 23 Attorney 1 had no role in the case after joining the Office. She never shared any confidential information
 24 with any member of the case team. She did not supervise the case or review any proposed charges. And
 25 she left the Office months before charges were approved by the Fraud Section and presented to the Grand
 26 Jury. At every step the Office has acted in accordance with its ethical duties and will continue to do so.
 27 Shafi has pointed to no facts that would warrant the extreme measure of recusing the entire Office, much
 28 less the truly unprecedented action of dismissing the indictment. His motion must be denied.

1 //

2 **A. There Is No Basis For The Recusal Of The United States Attorney's Office**

3 There is no basis to recuse the Office. Shafi makes two arguments for why there is a conflict that
 4 requires at least recusal. First, he argues that Attorney 1's senior role at the Office "influenced the
 5 prosecutors" who unavoidably "credited their leader's work." Dkt. 64, Def.'s Mot. to Dismiss at 19.
 6 Second, he argues that Attorney 1 will be a critical fact witness, and "the public could reasonably question
 7 Attorney-1's credibility if Shafi calls her, precisely because her former subordinates sit at the prosecution
 8 table." *Id.* at 16. But Shafi has shown neither a strong factual predicate for officewide recusal, nor that
 9 the continued involvement of this Office will "result in a legal or ethical violation." *Williams*, 68 F.4th at
 10 573.

11 **1. There is no factual basis to disqualify the entire Office.**

12
 13 Shafi must show a "strong factual predicate for blanket disqualification." *Williams*, 68 F.4th at
 14 573. For the reasons outlined below, even if Shafi's narrative was taken as true, there would be no legal
 15 basis for recusing the entire Office. But Shafi's narrative *is not true*; it is rather riddled with serious factual
 16 errors. Correcting these errors drastically changes the story and destroys Shafi's claim that he was
 17 prejudiced by Attorney 1's employment by the Office. *Id.* (explaining that "defendants must demonstrate
 18 prejudice from a prosecutor's potential conflict of interest or present clear and convincing evidence of
 19 prosecutorial misconduct before a district court may disqualify a prosecutor") (cleaned up).

20 Shafi alleges that Attorney 1 became chief of "the same Section that had been investigating Shafi
 21 and IRL, and the same Section with which she had been 'cooperating' on the company's behalf." Wrong.
 22 The Corporate and Security Fraud section was not the section responsible for investigating Shafi. The
 23 case was opened by, and prior to April 2024 supervised by, the Oakland Branch of the Office. Paidipaty
 24 Decl. ¶ 2. While one member of the case team was assigned to the Corporate and Securities Fraud section,
 25 the other two members, including the supervisor, were assigned to the Oakland Branch. And after Shafi
 26 complained about Attorney 1's presence at the Office, the sole member of the investigative team who had
 27 been in the Corporate and Securities Fraud section was moved to another section. Dkt. 64, Def.'s Mot. to
 28 Dismiss, Ex. P, Aug. 18, 2024 Letter; Paidipaty Decl. ¶ 7. Attorney 1 never supervised the investigation,

1 never supervised the section that conducted the investigation, and other than the first few months in the
2 Office, did not even supervise any member of the investigative team.

3 Shafi goes on to allege that Attorney 1 “handed the government its theory” of the case. Dkt. 64,
4 Def.’s Mot. to Dismiss at 13. Wrong. The basis for this claim is a letter that Attorney 1 sent *to the SEC*,
5 asking that it not charge IRL. *See id.* at Ex. J, September 2023 Letter. While the letter suggested that the
6 SEC coordinate with DOJ, it did not recommend any charges. *See id.* at 6-7. Nor was it addressed or
7 copied to DOJ, and nobody at DOJ, including the case team, received the letter until the filing of this
8 motion. Most importantly, this letter did not provide the SEC with any new information. By the date of
9 the letter, the SEC had been conducting its investigation for over a year.¹² The face of the letter
10 demonstrates the absurdity of Shafi’s claim that Attorney 1 “handed the government its theory:” the letter
11 is a response to the SEC’s consideration of charges against IRL relating “to Mr. Shafi’s misrepresentations
12 to Series C investors regarding advertising and marketing expenses and his use of investor proceeds for
13 personal expenses.” *Id.* at 1. In other words, the letter demonstrates that the SEC already had a clear
14 theory of Shafi’s liability; the open question was whether the SEC should “impute Mr. Shafi’s conduct to
15 IRL.” *Id.*

16 Other facts further belie Shafi’s claim that Attorney 1 masterminded the theory of fraud underlying
17 this case. The SEC’s second round of subpoenas, sent to Incent Ad Company 1 in November 2022 and
18 Shafi and his family members in December 2022, had already expanded to include topics related to IRL’s
19 growth spending. Paidipaty Decl., Ex. 1, Subpoena to Incent Ad Company 1; Dkt. 64, Def.’s Mot. to
20 Dismiss, Ex. E, January 2023 Presentation at 4. This was months before Attorney 1 had been appointed
21 to represent the Special Committee. Shafi provides no evidence that Attorney 1 somehow led the SEC to
22 this theory as early as November 2022. Nor could he: the SEC’s suspicion that Shafi had misled investors
23 about its marketing spend was based on its own investigation. Similarly, in July 2023, the government
24 executed a search warrant on Shafi’s residence. *See* Paidipaty Decl., Ex. 5, Hawaii Warrant. The warrant
25 affidavit included detailed allegations that Shafi had misled investors in order to conceal the millions of
26

27
28 ¹² In fact, had the letter been received by the DOJ, it also would not have provided the DOJ with
any new information, given that by September 2023 the DOJ had established probable cause of Shafi’s
scheme to defraud investors and executed a search warrant on Shafi’s property.

1 dollars he was spending on incent advertising. Indeed, nearly all of the core allegations that would
2 eventually make up the indictment in this case were contained in the affidavit supporting the July 2023
3 warrant. Since the warrant was obtained, and the search executed, before the government had engaged
4 IRL and its attorneys, including Attorney 1, it is impossible that Attorney 1 could have “handed” the
5 government theory of the case. This assertion is simply untrue.

6 Finally, Shafi alleges that Attorney 1 “was running the Section that ultimately” charged Shafi.
7 Wrong. Attorney 1 never supervised the section that charged Shafi, and indeed, by the time the case was
8 charged, had left the Office, and so did not supervise *any* section. As explained above, when Attorney 1
9 joined the Office, the case was supervised by the Oakland Branch. After Shafi’s counsel complained
10 about Attorney 1’s presence at the Office, supervision for the case was removed from the Office entirely.
11 The charges were ultimately reviewed and approved by the Criminal Division’s Fraud Section. And these
12 charges were reviewed, approved, and presented to the Grand Jury *months after* Attorney 1 had left the
13 office.

14 The true story is very different from what Shafi describes. Attorney 1 represented Shafi’s victim
15 and cooperated with government attorneys, facilitating interviews and providing documents. But she did
16 not cause the criminal investigation to be opened, nor did she provide the theory of the case. Attorney 1
17 later joined the office and took over the Corporate and Securities Fraud section. But she was recused from
18 this matter and had no involvement. She did not supervise the case. Other than a few months at the
19 beginning of her tenure with the Office, she did not supervise any member of the case team. She did not
20 share any evidence or confidential information with the case team. She did not review charges. She did
21 not approve charges. To the extent that there could have been any prejudice to the defendant from
22 Attorney 1 joining the office, the steps the Office took—recusing Attorney 1, moving AUSA 1 out of her
23 section, and moving supervision to the Fraud Section—completely alleviated it. Nothing in this record is
24 an “extraordinary circumstance[.]” warranting the “extreme remedy” of recusing an entire Office.
25 *Williams*, 68 F.4th at 573

26 **2. The Office’s continued representation will not violate any law or ethical duty.**

27 Without showing a strong factual predicate for disqualification, Shafi’s motion must fail.
28 *Williams*, 68 F.4th at 573. But even if the Court were to find such a factual predicate, Shafi must also

show that the Office’s continued representation “will result in a legal or ethical violation.” *Williams*, 68 F.4th at 573. He has not done so. There is no ethical rule or legal authority that requires the Office to recuse in this situation. Shafi nevertheless advances three primary theories for why the Office must recuse: 1) that Attorney 1’s conflict is imputed to the Office or otherwise creates the appearance of partiality; 2) that Attorney 1’s position as a supervisor requires recusal; and 3) that Attorney 1 may be a witness at trial. Each of these arguments is unsupported by law and must be rejected.

3. There is no ethical rule that requires recusal of the Office.

Shafi has identified no ethical rule or legal principle that would be violated by the Office’s continued participation in this case and has therefore failed to make the showing necessary for recusal of the entire Office. *Williams*, 68 F.4th at 573.

Shafi only cites one ethical standard—Model Rule of Professional Conduct 3.8—in support of his argument that the Office must be recused. Model Rule 3.8 covers the “Special Responsibilities of a Prosecutor,” and has been adopted in California as California Rule of Professional Responsibility 3.8. The Rule has numerous requirements, including that no prosecutor pursue a case that they know is not supported by probable cause, make reasonable efforts to ensure defendants are advised of their rights, respect the rights of unrepresented parties, make required disclosures of discovery, including exculpatory evidence, and seek to remedy wrongful convictions. Shafi does not point to any provision of the Rule itself that he believes has been violated. Rather, he points to a provision of the commentary to the rule, which states that “[a] prosecutor has the responsibility of a minister of justice and not simply that of an advocate.” Dkt. 64, Def.’s Mot. to Dismiss at 11 (quoting commentary to Model Rule of Professional Conduct 3.8). This is of course a correct statement of the role of a prosecutor. But Shafi must do more than recite this truism. In order to obtain the extraordinary remedy of recusal, he must show that the Office’s participation would result in an actual violation of an ethical rule.

Shafi’s suggestion seems to be that the ethical violation is simply the appearance that the Office would not be impartial. But the “Ninth Circuit has made clear the appearance of impartiality is insufficient grounds for prosecutorial disqualification.” *Nosal*, 2009 WL 482236, at *3. “[A]n appearance of impropriety [is] insufficient and the appropriate standard requires a showing of actual prejudice to disqualify a USAO.” *Id.* (citing *United States v. Lorenzo*, 995 F.2d 1448 (9th Cir.1993) (holding that

1 there was no prejudice where there was no suggestion that the charges were brought because of the
 2 victimization of the U.S. Attorney himself; and no suggestion that the USAO “did not exercise its
 3 discretionary function in an even-handed manner or that its zeal was not born of objective and impartial
 4 consideration of the merits of this case.”)). There is no basis for “disqualifying the entire USAO, when
 5 no evidence of confidential information sharing occurred and appropriate screening steps were taken;”
 6 rather, recusal is a remedy reserved for “serious abuses.” *Id.*

7 To the extent that Shafi’s motion is based on a belief that an ethical violation would occur because
 8 Attorney 1’s conflict can be imputed to the office, this argument also fails. Unlike private law firms, the
 9 conflicts of individual prosecutors are not imputed to the entire prosecutor’s office. *See Matter of Grand*
 10 *Jury Investigation of Targets*, 918 F. Supp. at 1378; *see also Nosal*, 2009 WL 482236, at *2 (noting that
 11 under the Model Rules of Professional Conduct, “personal conflicts are not imputed to others in a
 12 government office”); *United States v. Glob. One Grp., LLC*, No. 3:08-CR-0120-LRH-VPC, 2010 WL
 13 3259915, at *2 (D. Nev. Aug. 16, 2010) (explaining that “there is no requirement that the court recuse an
 14 AUSA or a USAO based on the imputed conflict”). This principal stems from the Ninth Circuit’s
 15 conclusion that government agencies are not like private law firms. *See United States v. Weiner*, 578 F.2d
 16 757, 767 (9th Cir.), cert. denied, 439 U.S. 981(1978) (noting that the free flow of information assumed to
 17 exist within law firms is not assumed for government agencies); *In re Charles Willie L.*, 63 Cal.App.3d
 18 760, 765, 132 Cal.Rptr. 840 (1976) (“Any analogy between a private law firm and the district attorney’s
 19 office is tenuous at best”). The principle is consistent with the Ninth Circuit’s reasoning for imputing
 20 conflicts in the case of private law firms, in which case the client is free to hire another law firm. *See*
 21 *Trone v. Smith*, 621 F.2d 994 (9th Cir.1980). Finally, there are separation of powers concerns when the
 22 judiciary disqualifies a government agency which are not present in the case of private law firms. *See*
 23 *Rodella*, 59 F. Supp. 3d at 1348–49 (noting that there “disqualifying government attorneys implicates
 24 separation of powers issues . . .”).

25 Unsurprisingly, then, the Ninth Circuit has previously refused to disqualify an entire office on the
 26 basis of a single attorney’s conflict, a result that is only possible if it is not imputing the attorney’s conflicts
 27 to the entire office. *See, e.g., United States v. Mapelli*, 971 F.2d 284, 287-8 (9th Cir.1992) (holding that
 28 two AUSA must be disqualified after being exposed to immunized testimony without recusing the entire

1 office).

2 Unaided by the ethical rules, Shafi tries to support his argument by citing to the DOJ Justice
3 Manual, which he argues “does not confine recusal to individual attorneys.” Dkt. 64, Def.’s Mot. to
4 Dismiss at 11. Shafi argues that “Section 3- 1.140, which addresses recusal of a U.S. Attorney’s Office,
5 provides that the ‘requirement of recusal’ arises where ‘a conflict of interest exists or there is an
6 appearance of a loss of impartiality.’” *Id.* But the Ninth Circuit has recognized that “the U.S. Attorneys’
7 Manual is not intended to, does not, and may not be relied upon to create any rights, substantive or
8 procedural, enforceable at law by any party in any matter civil or criminal” and therefore does not provide
9 a legal basis for a Court to recuse a United States Attorney’s Office. *Lorenzo*, 995 F.2d at 1453 (internal
10 quotations omitted).

11 Furthermore, nothing about the facts of this case suggests that continued participation of the Office
12 could result in an appearance of a loss of impartiality. Here, an attorney joined the Office, was
13 immediately recused, and never supervised the case. The AUSA in the section she supervised was moved
14 to a different section and supervisory chain after Shafi raised the potential conflict. Another office of the
15 DOJ was brought in to supervise the case and approve charges. And the attorney at issue left the Office
16 almost six months before charges were actually presented to the Grand Jury.

17 None of the communications between Attorney 1 and the case team change this conclusion.
18 Attorney 1 reached out to the Oakland Branch Chief supervising the matter asking whether another AUSA
19 would help move the case along. This communication cannot have had any impact on the prosecution.
20 No confidential information was shared. No new staffing was added to the case. And the supervisor
21 refused to discuss the case with Attorney 1, noting the importance of avoiding even the appearance of a
22 conflict. Nor could Attorney 1 have had any untoward influence over the Oakland Branch Chief, since
23 she did not supervise him or have any control over his career. *See United States v. Minkkinen*, No. 2:22-
24 CR-00163, 2023 WL 3587757, at *5 (S.D.W. Va. May 22, 2023) (recusing every AUSA in an office when
25 the United States Attorney was conflicted and would be a trial witness, finding that the subordinate
26 attorney’s “ability to fairly evaluate evidence from his boss could reasonably be questioned”). The same
27 is true with respect to the other communications identified by the government: no confidential information
28 was shared, no case strategy was discussed, and nothing suggests any prejudice at all to Shafi. In short,

1 nothing about these facts suggest an appearance of partiality; in fact, the diligence displayed by the Office
2 in handling Shafi's concern demonstrates the opposite.

3 Shafi points to no other ethical rule which might even be arguably violated by the Office's
4 continued participation, because there are none. That is fatal to his motion.

5 **4. Attorney 1's former role as a supervisor in the Office is not a basis for**
6 **recusal.**

7 Shafi argues that Attorney 1's position as a supervisor in the office exerts an influence on the
8 prosecution team that cannot be cured with an ethical wall. Dkt. 64, Def.'s Mot. to Dismiss at 14. Shafi
9 does not specify what ethical violation arises from this fact. And indeed, there is no legal authority that
10 would require the recusal of the entire Office on this basis. The Ninth Circuit has explained that in this
11 circumstance, the "generally accepted remedy" is to disqualify Attorney 1 herself. *See Williams*, 68 F.4th
12 at 574; *see also Bolden*, 353 F.3d at 878 (citing *Young*, 481 U.S. at 807 (finding an actual conflict of
13 interest when prosecutor represented another party benefiting from case). But no case supports Shafi's
14 assertion that recusal of the entire office is required because the supervisor—even if recused from the
15 case—might have incidental influence over their subordinates.

16 Shafi cites only *Minkinen* in support of his theory. In that case a district court in West Virginia
17 recused every AUSA in an office because the United States Attorney had previously represented the
18 defendant in the case. In support of this decision, the court explained "[w]hen a prosecutor's "ability to
19 fairly evaluate evidence from his [or her] boss could reasonably be questioned," there would be a risk of
20 a mistrial. Dkt. 64, Def.'s Mot. to Dismiss at 14 (citing *Minkinen*, 2023 WL 3587757, at *6). And it
21 was apparently to avoid this risk that the district court recused the entire office. But *Minkinen* itself
22 explained that "[a]n attorney who previously represented a party may be effectively screened, such that
23 no knowledge or information gained during the representation is transferred to attorneys working on the
24 case." 2023 WL 3587757, at *5.

25 And in any case, the facts in that case were very different. First, in *Minkinen* the conflicted
26 attorney was the United States Attorney, who unarguably had a supervisory role over the AUSA
27 prosecuting the case. Second, the conflicted United States Attorney was going to be a trial witness, forcing
28 the AUSA to examine his current supervisor. *Minkinen*, 2023 WL 3587757, at *6. But as described

1 above, Attorney 1 did not supervise any of the prosecutors who charged this case at the time charges were
 2 presented. And because Attorney 1 is no longer at the Office, she does not supervise any attorney who
 3 may need to examine her at trial.

4 And even if the reasoning of *Minkinen* was applicable, district courts in this Circuit (and indeed,
 5 in this district) have reached the opposite conclusion. In *Nosal*, former Chief Judge Patel considered
 6 whether an NDCA AUSA should be recused in a situation where the United States Attorney was
 7 conflicted, but where the Department of Justice had assigned an Assistant Attorney General from outside
 8 the Office to supervise the NDCA AUSA with respect to that matter. 2009 WL 482236 at *2. The court
 9 found that there was no provision of the Rules of Professional conduct, California law, or Federal law that
 10 required recusal of the NDCA AUSA simply because the United States Attorney had recused. *Id.* at *2-
 11 *4. The facts of this case are similar to *Nosal*, since supervision of this case was moved out of the Office
 12 and the charges were approved by the Fraud Section. In fact, the appearance of conflict is much less
 13 severe here, since Attorney 1 had no supervisory role over the prosecutors who ultimately charged case.

14 Similarly, in *Glob. One Grp., LLC*, the district court refused to recuse an entire office simply
 15 because the United States Attorney was conflicted, explaining that “there is no requirement that the court
 16 recuse an AUSA or a USAO based on the imputed conflict from a new USA.” 2010 WL 3259915, at *1.
 17 That holding is inconsistent with Shafi’s theory that a supervisor’s conflict requires recusal of their
 18 subordinates. Other courts to consider the question have reached the same conclusion. *See, e.g., Rodella*,
 19 59 F. Supp. 3d at 1367-8.

20 **5. Even if Attorney 1 appears as a witness at trial, there is no reason members**
 21 **of the case team cannot fairly examine her.**

22 Shafi’s final theory for why the Office must recuse is that Attorney 1 may be a witness at trial.¹³
 23

24 ¹³ Shafi claims that Attorney 1 will be a witness at trial on two issues. The first is her alleged
 25 role in the “preservation and collection of data” from Shafi, which he claims is relevant to Count 8. The
 26 second is an allegation that Attorney 1 “helped write” the email that Shafi sent on September 28, 2022,
 27 forming the basis of Count 6. Dkt. 64, Def.’s Mot. to Dismiss at 14. In support of this claim, Shafi cites
 28 Exhibit D, which he describes as “Attorney 1 Email to IRL Counsel.” *Id.* Shafi asked to file this email
ex parte, because he believed that IRL might claim privilege. Shafi Motion to Seal. Shafi does not state
 whether he has conferred with IRL regarding its position on privilege. Regardless, likely because this is
 a privileged document, and because the privilege holder, IRL, has not waived privilege, the government
 does not have this email. It is therefore unable to respond to Shafi’s claims about what it says, or
 comment on its implications for this motion.

1 This is an issue, he argues, because “[t]he Office would have to weigh the credibility, conduct, and
2 exculpatory knowledge of its own former leader while prosecuting the case she helped build.” Dkt. 64,
3 Def.’s Mot. to Dismiss at 17. This risks mistrial, Shafi argues, because the “prosecutor’s ability to fairly
4 evaluate a former boss’ evidence may ‘reasonably’ be doubted and viewed through the lens of institutional
5 loyalty.” *Id.* Shafi again cites *Minkkinen* in support of his claim that these facts require recusal. But in
6 *Minkkinen* the conflicted attorney was the United States Attorney, in the supervisory chain of the
7 prosecuting AUSA. And he was the *current* United States Attorney, not a former colleague. *Minkkinen*,
8 therefore, provides no basis recusing the entire office.

9 The Ninth Circuit has addressed this question, suggesting that a member of the office being a
10 witness might be one of the “limited circumstances” that would justify “disqualification of a single
11 prosecutor” whose testimony was required at trial. *See Thanh Viet Cao*, 526 F. App’x at 800. But there
12 is no precedent in the Ninth Circuit holding that a member of the Office being a witness requires recusal
13 of the entire office. And there is no precedent anywhere in which a Court held that a *former* member of
14 the Office being a witness creates any sort of conflict at all, much less a conflict so severe that the extreme
15 remedy of recusing an entire office is required. The Ninth Circuit instead has rejected the argument that
16 the entire office must be recused if members of that office—including the United States Attorney himself
17 —testify at trial. *Lorenzo*, 995 F.2d at 1453.

18 The reasoning of *Minkkinen* underscores why there is no such conflict arising from a former
19 employee being a witness. The court in *Minkkinen* was concerned that the conflicted United States
20 Attorney “remains ultimately responsible for [] supervision and employment status” of the assigned
21 AUSA, “including raises, promotions, and discipline.” 2023 WL 3587757 at *3. It was only in this
22 context that the AUSA’s “ability to fairly evaluate evidence from his boss could reasonably be
23 questioned.” *Id.* at *6. Those conditions are not present in this case. Attorney 1 has no authority over
24 the “employment status,” “raises,” “promotions,” or “discipline” of any member of the prosecution team.
25 Even when she was employed at the Office, she only had supervisory authority over one member of the
26 prosecution team, but even that only for a few months and not when the case was charged. And to the
27 extent that there is any lingering issue with a member of the Office examining a former colleague, the
28 Criminal Division attorney who has been assigned to this case team could handle the examination.

Attorney 1 may or may not be a witness at trial.¹⁴ If she is, her former position at the Office provides no basis for taking the drastic step of recusing the entire United States Attorney's Office. And Shafi has provided no authority that suggests a different result.

B. There Is No Basis To Dismiss The Indictment.

Shafi has not cited a single case where a Court took the extreme step of dismissing an indictment on the basis of a conflict of interest. In the cases in this Circuit that have considered whether recusal is required by a conflict, courts have never suggested that a conflict, even a conflict warranting recusal, would require a dismissal. *See, e.g., Lorenzo*, 995 F.2d at 1453; *Nosal*, 2009 WL 482236, at *4; *Rodella*, 59 F. Supp. 3d at 1348–49. This makes sense: it is hard to see how a conflict of interest could ever meet the high standard for dismissing an indictment on the basis of prosecutorial misconduct. Certainly nothing in this record comes close to meeting that high bar.

Shafi claims that “because the conflict infected the manner in which the prosecutors obtained the indictment, dismissal without prejudice is the right remedy.” *See* Dkt. 64, Def.'s Mot. to Dismiss at 18 (quoting *Samango*, 607 F.2d at 885).¹⁵ But Shafi does not explain *how* Attorney 1 improperly influenced the manner in which the indictment was secured. He alleges that Attorney 1 was chief of the section that investigated and presented the case to the Grand Jury. But this is incorrect. This was not a Corporate and Securities Fraud case; it was co-staffed with attorneys from both the Corporate and Securities Fraud section and Oakland Branch, but supervised by the Oakland Branch (and later the Fraud Section). He alleges that Attorney 1 supervised the attorneys who investigated and presented the case. But this is incorrect. One AUSA was briefly under Attorney 1's supervision, but was moved out in order to alleviate

¹⁴ Given that Attorney 1 was retained by IRL and then IRL's Special Committee, the government does not believe Shafi can waive attorney-client privilege. Thus, it is not clear how Shafi plans to call Attorney 1 as a witness at trial.

¹⁵ Shafi's motion also seems to suggest that the *Williams* test for the recusing an entire United States Attorney's Office is also the standard for dismissing an indictment on the basis of an apparent conflict. *See* Dkt. 64, Def.'s Mot. to Dismiss at 18. That standard requires a showing of a substantial factual basis for recusal, including prejudice to the defendant, and identification of a legal or ethical violation that will result from the Office's continued participation. The correct test for dismissing an indictment on the basis of prosecutorial misconduct requires the greater showing of flagrant misconduct and substantial prejudice. *Kearns*, 5 F.3d at 1253–54. Shafi does not engage with this standard at all: he does not even attempt to show flagrant misconduct or substantial prejudice. Nevertheless, as described at length above, Shafi has failed to meet the *Williams* standard for recusal. And so it follows that he also fails to meet the much more exacting *Kearns* standard for dismissing an indictment.

1 any conflict. Shafi does *not* allege that Attorney 1 shared confidential or prejudicial information with
2 members of the investigative team. And indeed, she did not. He also does not allege that Attorney 1
3 reviewed or approved the charges. And he could not, since Attorney 1 left the Office months before the
4 charges were approved and presented to the Grand Jury.

5 Nothing Shafi has argued amounts to either flagrant misbehavior or substantial prejudice, the two
6 showings he must make to obtain dismissal. *Kearns*, 5 F.3d at 1253–54. Certainly he has not described
7 anything “so grossly shocking and outrageous as to violate the universal sense of justice.” *Id.* Nor has
8 Shafi presented any basis for dismissing the indictment, as opposed to a less restrictive remedy (already
9 voluntarily taken by the Office), such as recusing any attorneys that the Court determines are conflicted.
10 Shafi’s request is without precedent, unsupported by the facts or the law, and should be denied.

11 CONCLUSION

12 For these reasons, Shafi’s motion should be denied in full.

13
14 DATED: August 17, 2026

Respectfully submitted,

15 CRAIG H. MISSAKIAN
16 United States Attorney

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18 Chief, White Collar and Corporate
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22 _____
23 /s/

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16 UNITED STATES DISTRICT COURT
17
18 NORTHERN DISTRICT OF CALIFORNIA
19 OAKLAND DIVISION

20 UNITED STATES OF AMERICA,	)	CASE NO. 25-00258-YGR
	)	
21 Plaintiff,	)	DECLARATION OF SAILAJA M. PAIDIPATY
	)	
22 v.	)	
	)	
23 ABRAHAM SHAFI,	)	
	)	
24 Defendant.	)	
	)	

1 I, Sailaja M. Paidipaty, declare and state as follows:

2 1. I am an Assistant United States Attorney based in the United States Attorney's Office for
3 the Northern District of California (the Office) and am assigned to represent the government in the
4 above-captioned case.

5 2. The Office initiated an investigation into Defendant Abraham Shafi and Get Together,
6 Inc. on or about April 10, 2023, after receiving information from the Securities and Exchange
7 Commission (SEC). The investigation concerned allegations that IRL's user metrics were falsified, that
8 misstatements were made to investors regarding IRL's marketing spending, and that executives may
9 have diverted corporate funds for personal use. The investigation was supervised by the Chief of the
10 Oakland Branch of the Office. The following month, May 2023, I joined the investigative team. At the
11 time, I was assigned to the Corporate Securities Fraud section.

12 3. By the time that I joined the investigative team in May 2023, the SEC had already taken
13 the depositions of numerous IRL employees, investors, and at least one employee from Incent Ad
14 Company 1. At the end of May 2023, Shafi was deposed by the SEC.

15 4. On July 19, 2023, agents of the Federal Bureau of Investigation executed a federal search
16 warrant on Shafi's residence in Hawaii. That same day, I contacted counsel for IRL, at that time
17 Attorney 1, and asked to arrange a call. No one from the investigative team had communicated with
18 counsel for IRL, including with Attorney 1, until that point.

19 5. In the course of the investigation, the investigative team reached out to counsel for IRL,
20 including Attorney 1, who provided information on the procedural posture of the civil investigation,
21 produced documents, and helped coordinate witness interviews. I understand that Attorney 1 also
22 communicated with attorneys for the SEC in a similar capacity.

23 6. In December 2023, Attorney 1 joined the Office as an Assistant United States Attorney.
24 In January 2024, Attorney 1 became Chief of the Corporate and Securities Fraud Section.

25 7. In or around August 2024, I transferred out of the Corporate Securities Fraud section.
26 After that point, I was not supervised by Attorney 1 in any capacity. I remained on the team
27 investigating Shafi and IRL. Supervision of the investigation was transferred from the Oakland Branch
28

1 of the Office to the Fraud Section of the Criminal Division of the Department of Justice in Washington,
2 D.C. In addition, a Trial Attorney from the Fraud Section joined the investigative team.

3 8. In March 2025, Attorney 1 left the United States Attorney's Office.

4 9. From the time that Attorney 1 joined the Office in December 2023 until her departure in
5 March 2025, I never had any conversations or other communications with Attorney 1 regarding the
6 substance of the investigation of Shafi and Get Together.

7 10. Prior to charges being presented to the Grand Jury in August 2025, management in the
8 Fraud Section¹ of the Criminal Division of the Department of Justice in Washington D.C. reviewed and
9 approved the proposed Indictment.

10 11. Attached here as Exhibit 1 is a true and correct copy of a November 2022 subpoena
11 issued by the SEC to an entity identified as "Incent Ad Company 1" in the Indictment in the above-
12 captioned matter.

13 12. Attached here as Exhibit 2 is a true and correct copy of a December 2022 subpoena
14 issued by the Securities and Exchange Commission (SEC) to Shafi.

15 13. Attached here as Exhibit 3 is a true and correct copy of a report provided to the Office by
16 former counsel to Shafi.

17 14. Attached here as Exhibit 4 is a true and correct copy of a forensic report that the
18 government received from the SEC. The government understands that the report was commissioned by
19 the Special Committee of the Board of Directors during its internal investigation in 2023.

20 15. Attached here as Exhibit 5 is a true and correct copy of a federal search warrant issued by
21 the Honorable Kenneth J. Mansfield, U.S. Magistrate Judge, District of Hawaii. *See* Mag No. 23-1091
22 KJM. The warrant authorized a search of Shafi and his residence to seize evidence related to the
23 underlying fraud investigation.

24 16. Attached here as Exhibit 6 is a true and correct copy of a January 3, 2024 e-mail chain.

25 17. Attached here as Exhibit 7 is a true and correct copy of a February 20-21, 2024 e-mail
26 chain.

27
28 ¹ The Fraud Section has since been renamed the White Collar and Corporate Enforcement
Section.

1 18. Attached here as Exhibit 8 is a true and correct copy of a January 8, 2024 e-mail chain.

2
3 I declare under the penalty of perjury under the laws of the United States that the foregoing is
4 true and correct.

5
6 DATED: August 17, 2026

/s/ Sailaja M. Paidipaty
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8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

12 UNITED STATES OF AMERICA,
13 v.
14 ABRAHAM SHAFI,
15 Defendant.

Case No. CR25-00258-YGR

**ABRAHAM SHAFI'S REPLY IN
SUPPORT OF HIS MOTION TO
DISMISS THE INDICTMENT**

Hearing Date: September 8, 2026
Hearing Time: 2:00 p.m.
Judge: Hon. Yvonne Gonzalez Rogers
Courtroom: 1, 4th Floor

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INTRODUCTION

The government told this Court that an ethical screen separated Attorney-1 from this case from the day she joined its Office. The government's own exhibits prove there was none. The lawyer behind that missing screen was the alleged victim's own former counsel, who had urged the government to charge Shafi. For the next eight months, she supervised the lead prosecutor on this case.

There is no longer just an appearance of impropriety. There is written evidence of it, all of it disclosed by the government *only* after Shafi filed the instant motion. The Indictment should be dismissed. The gap between what the government has told this Court and what its own record shows is now stark. Five examples are addressed in this Reply:

The Government's Claims	What the Evidence Shows
Attorney-1 had "no involvement whatsoever in the investigation by the office or the decision to charge," and "was not discussing this matter, had no involvement in the matter." Ex. A (Tr.) at 5:10-13.	Attorney-1 sent the case team commentary on the case, gathered the agents' identities, praised the lead agent's work, and recruited a senior prosecutor "to help move it along." Opp., Exs. 6-8.
AUSA-1 was moved out of Attorney-1's unit "[w]hen [Attorney-1] joined the office." Ex. A (Tr.) at 5:6-8.	The move came "in or around August 2024," eight months later, and then only after Shafi complained. ECF 80 (AUSA-1 Decl.) ¶¶ 6-7.
The Office acted in accordance with its ethical duties "at every step." Opp. at 19.	Attorney-1: "I talked to [AUSA-2] and I wanted to see if it would be ok to add [AUSA-2] to the IRL team to help move it along." Opp., Ex. 7.
AUSA-1 "never discussed the substance of the investigation" with Attorney-1. Opp. at 15.	AUSA-1 handed Attorney-1 the case agents' identities within minutes of her asking. Opp., Ex. 8.
Attorney-1 was "recused from the matter from the date she joined the Office." Opp. at 16.	No screening procedure existed. The Branch Chief could not say how the situation "was dealt with"; Attorney-1 recalls no ethics briefing; and the Shafi investigation was on Attorney-1's own case tracker. Ex. C; Ex. B.

The government's brief is less an opposition than an admission. It insists that Attorney-1 was "recused from the matter from the date she joined the Office," that she played "no role" in the case, that she exercised "no influence" over the prosecutors investigating Shafi, and that the Office honored its ethical duties "at every step." Opp. at 7, 16, 19, 22.¹ Then it attaches the proof that each of those claims is false: *repeated* emails

¹ All citations to the government's brief ("Opp." or "Opposition") refer to the page numbers assigned by the Court's CM/ECF system in the header of the filed document.

1 between Attorney-1 and those same prosecutors. *Id.* at Exs. 6-8. And it discloses one more
2 off-the-record conversation about the case.

3 This is the second time that the government has made these misleading claims. The
4 first was in this courtroom. On June 11, 2026, after Shafi previewed this motion, the
5 government assured the Court that [Attorney-1] had “no involvement whatsoever in the
6 investigation by the office or the decision to charge,” and that “[t]here was an ethical wall
7 placed around [Attorney-1].” Ex. A (June 11, 2026 Hr’g Tr.) at 5:10-13. The emails proving
8 otherwise were sitting in the Office, where they had been for more than two years. The
9 Court (and Shafi) did not learn of them until the Opposition.

10 Here’s what the record now shows: In December 2023, Attorney-1 became Chief of
11 the Corporate and Securities Fraud Section, the section investigating Shafi. Within weeks,
12 Attorney-1 was feeding material to the investigation team she was supposedly barred from
13 touching. On January 3, 2024, she circulated an inflammatory article portraying IRL as a
14 fraud, and Shafi as its perpetrator, to (1) AUSA-1, whom she supervised and who remains a
15 lead prosecutor on the case; (2) a second prosecutor (“AUSA-2”), who was not then
16 assigned to the case; and (3) the Chief of the Oakland Branch (the “Branch Chief”), whom,
17 by the government’s own admission, “supervised” the investigation. Opp., Ex. 6. The
18 headline alone, “was IRL the next Facebook or a fraud?”, was enough for her to think it
19 worth passing along. *Id.*

20 Had Attorney-1 *actually* been recused, that email would never have been sent. And
21 had the Office enforced the screen it now describes, the reply would have been one word:
22 Stop. The opposite happened. Within hours, AUSA-1 thanked Attorney-1 and attached the
23 article for the group to review. *Id.* No one told her to stop. *See id.*

24 Perhaps for that reason, Attorney-1 persisted. Five days later, Attorney-1 asked
25 AUSA-1 to identify the FBI agents assigned to the Shafi investigation, thanking her in
26 advance for “any info” AUSA-1 could provide. *Id.*, Ex. 8. Again, AUSA-1 obliged, within
27 minutes. And she did more than just provide a name. She reassured Attorney-1 that,
28 although “relatively new[,]” the lead agent was “great” and that an experienced training

1 agent was working alongside her. *Id.* Attorney-1 replied with her own assessment: she
2 “thought [the agent] seemed very good.” *Id.* That is direct, substantive commentary on the
3 agent’s work.

4 That information would have been of great interest to Attorney-1’s former client, the
5 alleged victim in this case, but its relevance to a recused Section Chief with “no role” in the
6 investigation is much harder to explain. The screen was supposed to keep Attorney-1 out of
7 the investigation, not give her a channel for collecting information about it or for passing her
8 assessments back. Again, no one told her to stop. *Id.*

9 So Attorney-1’s interference continued. On February 20, 2024, she emailed the
10 Branch Chief supervising the investigation, asking if she could “add” AUSA-2, her
11 predecessor as Section Chief, “to the IRL team to help move it along.” *Id.*, Ex. 7. Whatever
12 debate remains about whether her conduct was consistent with an ethical wall ends with the
13 Branch Chief’s reply. He told Attorney-1 that she “shouldn’t be talking to anyone about this
14 case within the office,” that she “need[ed] to be quiet about the matter,” and above all that
15 she could not “be seen even implicitly as advocating for anything.” *Id.* That admonition
16 could have come nearly two months earlier, when Attorney-1 sent her *first* email copying
17 the Branch Chief. It did not. He explained that the matter was especially sensitive because
18 Attorney-1 had “represented the [alleged] victim.” *Id.* Conduct the government now calls
19 harmless was serious enough that the Branch Chief asked whether Attorney-1 had received
20 an “ethics briefing.” *Id.* She had not: “I don’t think I’ve had a formal briefing from [the
21 ethics official] but will reach out to her.” *Id.* And in a recent interview with the government,
22 she said she did not recall ever receiving one. Ex. B at 2 (Attorney-1 302).

23 Then there is the government’s own investigation into the problem. In July 2026,
24 with this motion imminent, it finally interviewed Attorney-1 and the Branch Chief. Exs. B,
25 C. The interviews collected denials and tested none of them. Attorney-1 told the government
26 she “did not have any kind of role in the investigation” and did not know who was staffed on
27 it. Ex. B at 1. But her own emails show her discussing the matter with the people staffed on
28 it. The agents never showed her the January emails, and when she said she could not recall

1 why she wrote the February one, no one pressed. *Id.* The government then filed an
 2 Opposition built on these denials, filing the emails that disprove those denials under seal.
 3 The government did not produce the memoranda of the interviews themselves until August
 4 20, 2026: three days after the Opposition and four days before this Reply was due. Nowhere
 5 does the government claim to have given a complete accounting of Attorney-1's
 6 communications with the prosecutors. It says only that none were "substantive," a line the
 7 government has already proven it cannot be trusted to draw.

8 The post-motion disclosures change the posture of this motion. By February 2024,
 9 the Office knew Attorney-1 had repeatedly crossed the screen. Every crossing pointed in the
 10 same direction: toward the indictment she had urged before she joined. Yet the government
 11 identifies no genuine effort to learn how far her involvement went. It left AUSA-1 under
 12 Attorney-1's supervision until approximately August 2024, *months after* the breach. *See*
 13 ECF 80 (AUSA-1 Decl.) ¶ 7. AUSA-1 was removed from Attorney-1's supervision only
 14 when Shafi raised the conflict issue himself. Opp. at 6 ("When Shafi's counsel at the time
 15 raised concerns about the appearance of a conflict based on Attorney-1's former
 16 representation of IRL . . . [AUSA-1] was moved out of Attorney 1's section."). The
 17 government never told the Court about that eight-month delay. On June 11, 2026, it said
 18 AUSA-1 was moved "[w]hen [Attorney-1] joined the office." Ex. A (Tr.) at 5:6-8.

19 On the disclosed record alone, dismissal is warranted. At minimum, the documented
 20 breaches warrant discovery and an evidentiary hearing.

21 ARGUMENT

22 I. The Conflict Pervades the Office and Requires Dismissal

23 The government's recent disclosures confirm that this case passes the two-part test for
 24 disqualifying an entire United States Attorney's Office. They prove that both (A) there is "a
 25 strong factual predicate for blanket disqualification" and (B) "continued representation of the
 26 government will result in a legal or ethical violation." *See United States v. Williams*, 68 F.4th
 27 564, 573 (9th Cir. 2023). Disqualifying an entire Office is an "extreme remedy," appropriate
 28 only in "the most extraordinary circumstances." *Id.* The burden is Shafi's. The government's

own exhibits and interview memoranda carry it.

A. The Government’s Evidence Supplies the Strong Factual Predicate

The government’s post-motion disclosures prove there was no effective screen of Attorney-1.² That removes the only factual premise of the government’s defense. The three emails the government attached to its Opposition show that Attorney-1 repeatedly intruded upon the investigation. Opp., Exs. 6-8.

1. January 3, 2024: Attorney-1 Worked the Case Team

Less than a month into her tenure as Section Chief, Attorney-1 sent the prosecutors investigating this case an article: “SoftBank’s Gen Z social media bust: was IRL the next Facebook or a fraud?” Opp., Ex. 6. A recused lawyer does not hand the case team reading material about the case. Attorney-1 was not merely watching Shafi’s investigation; she was feeding it, pointing the prosecutors to a press account that previewed the fraud theory they would later charge. The title alone made the point.

That is the influence a screen exists to prevent. AUSA-1, a prosecutor Attorney-1 directly supervised, did not act as though any wall existed. AUSA-1 downloaded the article and passed it to others on the team—AUSA-2 and the Branch Chief among them. *Id.* The reply went back to Attorney-1 as well, thanking her “for passing this along.” *Id.* Information crossed in both directions. And no one, including the Branch Chief supervising the investigation, did anything to stop it. *Id.*

2. January 8, 2024: Attorney-1 Gathered Nonpublic Case Information

Five days later, Attorney-1 asked AUSA-1 to “remind” her which FBI agent was handling the investigation, adding that she would be grateful for “any info!” Opp., Ex. 8. AUSA-1 complied one minute later. *Id.* No one asked why a recused supervisor wanted the agent’s name, whether she intended to contact the agent, or how she already knew the agent was a woman. What Attorney-1 did with the answer, the record does not say. The government does not claim to have reviewed Attorney-1’s communications with her former client, offers

² Shafi respectfully requests permission to file an oversized reply brief, by two pages, to address the significant developments in the factual record since filing his initial motion.

1 no affidavit from the agent, and never asked Attorney-1 about the request when it interviewed
 2 her in July 2026. Ex. B. What the record does show is a line prosecutor answering a section
 3 chief the way subordinates answer supervisors: at once, and without question. It shows too
 4 that no one had told Attorney-1 the case was off limits, though the Branch Chief now says
 5 otherwise. Ex. C at 2 (Branch Chief 302) (“everyone understood she should have no
 6 substantive role.”). And the team heard the unwritten message a second time: their section
 7 chief was still watching, down to who was running the investigation.

8 **3. February 20-21, 2024: Attorney-1 Worked to Speed Up Shafi’s Indictment**

9 On February 20, 2024, Attorney-1 told the Branch Chief that she wanted to add
 10 AUSA-2 “to the IRL team to help move it along.” Opp., Ex. 7. She said she had already
 11 “talked” to that attorney about doing so. *Id.* What she said about the case, about its target, or
 12 about her prior representation of IRL is unknown, because the government never asked either
 13 her or AUSA-2.

14 AUSA-2 was not a stranger to this case. He and the Branch Chief opened it; together
 15 they “conducted the initial work of taking and vetting the investigation.” Ex. C at 1. He was
 16 Attorney-1’s predecessor as Chief of the Corporate and Securities Fraud Section, and she had
 17 dealt with him directly, before she joined the Office, while she represented the alleged victim
 18 and he held the position she later took. Ex. B at 1-2. So the February 20 email was not an offer
 19 of clerical help. Attorney-1 proposed to put one of the two prosecutors who opened this
 20 investigation onto the team she wanted to speed up. And she proposed to do it without telling
 21 the line prosecutor: “I haven’t mentioned it to [AUSA-1] yet.” Opp., Ex. 7.

22 Whatever was said, the government’s assertions that it “recused Attorney-1 from the
 23 matter immediately” and that she “had no involvement” in it, Opp. at 6, 17, 22, cannot be
 24 squared with the government’s own exhibit. A lawyer with no involvement in an investigation
 25 does not form a view that it needs moving along. She does not know whether it is moving at
 26 all. And she does not recruit another prosecutor to speed it up.

27 That email came three months into the screen the government describes. Three months
 28 in, Attorney-1 was comfortable putting into writing her wish to accelerate the investigation.

1 What she was willing to write down invites the question what she said that was not written
 2 down. The government told this Court that Attorney-1 “was not discussing this matter” at all.
 3 Ex. A (Tr.) at 5:12-13. Apparently not.

4 Attorney-1 was not a junior prosecutor. As of early 2024, she had served as a law
 5 clerk, a trial attorney in DOJ’s Civil Rights Division, and a federal prosecutor. ECF 64, Ex. K
 6 (Attorney-1 LinkedIn). She had then spent more than 16 years at the SEC, where she rose to
 7 lead a regional office with dozens of attorneys, accountants, and other professionals, and then
 8 became a partner at a global law firm, defending the same kinds of investigations she had run
 9 as a government attorney. *Id.* Attorney-1 did not need an ethical “briefing” to know she had
 10 no business disregarding the ethical screen. She knew exactly what she was doing.

11 This third email chain is where the Branch Chief finally told Attorney-1 that she
 12 “shouldn’t be talking to anyone about this case within the office.” Opp., Ex. 7. He thus put in
 13 writing, for the first time, what he told the government in his July 17, 2026 interview
 14 “everyone understood” already: “the rule” was that Attorney-1 needed to be “quiet” and “not
 15 be seen even implicitly as advocating for anything” because her having “represented the
 16 [alleged] victim” created an “appearance issue.” *Id.*

17 That one email is the sum of any effort to enforce the screen. There was no follow
 18 through at all. Nothing followed, not even an ethics briefing. In the same chain, the Branch
 19 Chief asked whether Attorney-1 had received one. Opp., Ex. 7. She told the government she
 20 never did. Ex. B at 2. The inaction is unsurprising in light of the Branch Chief’s prediction, in
 21 that same chain, that the office “usually wins motions on stuff like this[.]” Opp., Ex. 7.

22 **4. Attorney-1 Kept the Shafi Investigation on Her Own Tracker**

23 The government’s interview of Attorney-1 supplies a fourth breach, and this one does
 24 not depend on anyone’s memory. It discloses, for the first time, that Attorney-1 kept a written
 25 tracker of her Section’s caseload. Because AUSA-1 was in her Section, “the SHAFI
 26 investigation was listed in the tracker.” Ex. B at 2. A lawyer who has been screened from a
 27 matter does not keep a running record of it.

28 The same interview memorandum states that the government refreshed Attorney-1’s

1 memory of the tracker with an email dated April 20, 2024, two months after the Branch Chief
 2 told her to stop. *Id.* No email of that date appears among the government’s exhibits, and none
 3 has been produced to Shafi. Either the government holds a fourth Attorney-1 document it has
 4 not disclosed, or its interview report misdates one of the three it has. Shafi has asked the
 5 government to produce the email and the tracker, but received no commitment to do so as of
 6 the time of filing.

7 * * *

8 Together, these emails told the people she supervised, without anyone saying it aloud,
 9 that their section chief was watching the case, that she remained interested, and that she
 10 wanted it to move toward an indictment of Shafi. And they knew what she had wanted before
 11 she arrived: as the alleged victim’s counsel, she had urged the government to charge Shafi.
 12 Prosecutors know what their bosses want. Their boss wanted an indictment. And Attorney-1
 13 was reminding this prosecution team of that desire even after she had joined the Office and
 14 even after she was subject to an ethical wall.

15 The bigger question is whether a wall existed at all, in any real sense. A screen is a
 16 defined term. California defines “screened” as “the isolation of a lawyer from any
 17 participation in a matter, including the timely imposition of procedures . . . to protect
 18 information” and keep others from “communicating with the lawyer with respect to the
 19 matter.” Cal. R. Prof. Conduct 1.0.1(k). “[I]t is not sufficient to simply produce declarations
 20 stating that confidential information was not conveyed or that the disqualified attorney did not
 21 work on the case; an effective wall involves the imposition of preventive measures to
 22 guarantee that information will not be conveyed.” *Kirk v. First Am. Title Ins. Co.*, 183 Cal.
 23 App. 4th 776, 810 (2010). A screen is proved with paper: written procedures imposed at the
 24 outset, notice, acknowledgment, monitoring. *See id.* (“To avoid inadvertent disclosures and to
 25 establish an evidentiary record, a memorandum should be circulated warning the legal staff to
 26 isolate the [tainted] individual from communications on the matter and to prevent access to
 27 the relevant files.” (citation omitted)).

28 The government’s authorities depend on a premise that is missing here: that there was

1 an effective screen. *Nosal* rejected office-wide disqualification where “appropriate screening
 2 steps were taken” and there was no evidence of a breach. Opp. at 23-24 (citing *United States*
 3 *v. Nosal*, No. C 09-00237 MHP, 2009 WL 482236, at *3 (N.D. Cal. Feb. 25, 2009)).
 4 *Minkinen* likewise recognized that office-wide recusal may be unnecessary where a
 5 conflicted attorney is “effectively screened” such that no information was “transferred to the
 6 attorneys working the case.” See *United States v. Minkinen*, No. 2:22-CR-00163, 2023 WL
 7 3587757, at *5 (S.D.W. Va. May 22, 2023). Here, no screening steps can be identified, the
 8 isolation never happened, and information moved across the wall in both directions. The
 9 government’s own witnesses confirm it. The Branch Chief told the FBI that he raised the
 10 situation with the Office’s ethics official and that they “initiated an internal process for how
 11 it was to be handled,” but that he “did not know how it was dealt with especially with regard
 12 to [Attorney-1].” Ex. C (Branch Chief’s 302). Attorney-1 recalls no briefing. Ex. B at 2. That
 13 is the entire screening record. On this record, the government’s cases support Shafi.

14 **B. Continued Representation by the Office Will Result in Ethical Violations**

15 Shafi has also met the second *Williams* element. Continued representation by this
 16 Office will result in ethical violations, because it already has. California Rule of Professional
 17 Conduct 1.11(d)(2)(i) forbids a lawyer “currently serving as a public official or employee” to
 18 “participate in a matter in which the lawyer participated personally and substantially while in
 19 private practice . . . unless the appropriate government agency gives its informed written
 20 consent.” Cal. R. Prof. Conduct 1.11(d)(2)(i). The rule also subjects Attorney-1 to Rules 1.7
 21 and 1.9, so participation required her former client’s informed written consent as well. *Id.* R.
 22 1.11(d)(1) & cmt. [9].

23 There is no dispute that Attorney-1 participated personally and substantially in this
 24 matter prior to joining the government. In her own words, Attorney-1 identified “potential
 25 sources of evidence” for the government, flagged “key witnesses,” and “facilitated”
 26 interviews. ECF 64 at 19. Nor has anyone suggested that Shafi consented. The government
 27 acknowledges the opposite: that Shafi “raised concerns about the appearance of a conflict
 28 based on Attorney-1’s former representation of IRL.” Opp. at 6. By participating in the

1 investigation of Shafi, Attorney-1 violated Rule 1.11(d). *See, e.g., City & Cty. of S.F. v. Cobra*
 2 *Sols., Inc.*, 38 Cal. 4th 839, 854 (2006) (disqualifying the entire office of the City Attorney
 3 where the City attorney previously represented the company suing the city in a matter related
 4 to his representation because a former client “may legitimately question whether a government
 5 law office, now headed by the client’s former counsel, has the unfair advantage of knowing
 6 the former client’s confidential information” and because there is “a compelling societal
 7 interest in preserving the integrity of the office of a city attorney.”); *People v. Conner*, 34 Cal.
 8 3d 141, 148 (1983) (affirming “the trial court’s order recusing the DA’s office from the further
 9 prosecution” of the case because a Deputy District Attorney in the office had witnessed the
 10 alleged crime).

11 Attorney-1’s violation triggers additional duties for the government. California Rule
 12 of Professional Conduct 5.1(c) makes an attorney “responsible for another lawyer’s violation
 13 of these rules and the State Bar Act if (1) the lawyer orders or, with knowledge of the relevant
 14 facts and of the specific conduct, ratifies the conduct involved; or (2) the lawyer, individually
 15 or together with other lawyers, possesses managerial authority in the law firm in which the
 16 other lawyer practices . . . and knows of the conduct at a time when its consequences can be
 17 avoided or mitigated but fails to take reasonable remedial action.” The Office did both. It
 18 ratified Attorney-1’s conduct by letting it continue. And it knew of the violations the moment
 19 her emails arrived, yet did nothing.

20 **C. The Office Knew the Screen Had Failed. It Told This Court the Opposite.**

21 By January 3, 2024, less than a month after Attorney-1 joined the Office, the Branch
 22 Chief supervising the investigation watched the screen fail firsthand. Opp., Ex. 6. Nothing
 23 changed. The same structure stayed in place for roughly eight more months. And when the
 24 Office finally acted, it did not act on its own initiative.

25 On May 16, 2024, Shafi complained to the government about the conflict. ECF 64,
 26 Ex. M (May 16, 2024 Letter). He explained that recusing Attorney-1 alone might not protect
 27 the investigation, and he identified the danger in her serving at once as a likely witness and as
 28 the supervisor of the prosecutors handling his case. *Id.* at 4-5.

1 Shafi was asking the Office to investigate whether the screen was sufficient. The
2 Office already knew it was not. What Shafi did not know was that Attorney-1 had fed the
3 prosecution material adverse to him and had tried to accelerate his prosecution. None of that
4 surfaced until this Motion forced it out.

5 The Office waited nearly three months to tell Shafi only that it took “concerns
6 regarding conflicts of interest and impartiality seriously” and had adopted “additional steps
7 beyond the recusal” of Attorney-1. ECF 64, Ex. N (Aug. 8, 2024 Letter). It did not mention
8 that the recusal and screening had already failed.

9 AUSA-1, the prosecutor who had already communicated about IRL with Attorney-1
10 at least twice, remained in Attorney-1’s section until “in or around August 2024.” ECF 80
11 (AUSA-1 Decl.) ¶ 7. The Branch Chief told the FBI the reason for that move; AUSA-1 “had
12 also been moved from [Attorney-1]’s supervision to insulate her from a situation like this.”
13 Ex. C at 2-3. So by the time the Office imposed its “additional steps[.]” Attorney-1 had
14 enjoyed eight months of continued access to the prosecutor she supervised. ECF 64, Ex. P.
15 For those eight months, nothing stood between them.

16 Why didn’t the government act sooner? The conduct was troubling enough to prompt
17 the Branch Chief to ask whether Attorney-1 had received an ethics briefing, Opp., Ex. 7, but
18 she never received one. Ex. B at 2. The government concedes that its so-called “further steps”
19 were taken “[i]n response to” Shafi’s May letter. Opp. at 16-17. But if Shafi had never written,
20 would anything have happened? The Department’s own manual states that an office aware of
21 an issue that “could require a recusal” from an “actual or apparent conflict of interest” must
22 contact EOUSA’s General Counsel’s Office, and only a designated Associate Deputy
23 Attorney General can order the recusal. JM 3-1.140. Nothing in the record shows the Office
24 ever made that call.

25 The Office cannot claim ignorance. The Branch Chief told the government in his
26 recent interview that Attorney-1 “should not have had any role in the SHAFI investigation[.]”
27 Ex. C at 1-2. He said that this “was known among the prosecution team in the office.” *Id.* at
28 2. He said that they “had even discussed the matter as a team and everyone understood she

1 should have no substantive role.” *Id.* The Office understood the conflict and still skipped the
 2 basics: no ethics briefing, no written screen, no inquiry into what Attorney-1 said or to whom.
 3 When the violations surfaced, the remedial action California Rule of Professional Conduct
 4 5.1(c)(2) required was recusal. The Office refused then. It refuses now. The violation is
 5 ongoing.

6 The concealment did not stop with defense counsel. It reached this Court. On June 11,
 7 2026, the government assured the Court that a wall was in place and that Attorney-1 had “no
 8 involvement whatsoever in the investigation by the office or the decision to charge.” Ex. A
 9 (Tr.) at 5:10-13. By that morning, the Office had held the emails proving otherwise since early
 10 2024: Attorney-1 discussing the case with the team, and the Branch Chief warning her in
 11 writing that she “shouldn’t be talking to anyone about this case.” Opp., Exs. 6-8. The
 12 government said nothing about them. It filed them under seal on August 17, 2026, after this
 13 Motion left it no choice.

14 The Court also heard a chronology that the government’s own declarant has since
 15 contradicted. On June 11, the government said AUSA-1 was moved out of Attorney-1’s unit
 16 “[w]hen [Attorney-1] joined the office.” Ex. A (Tr.) at 5:6-8. In the sworn declaration filed on
 17 August 17, AUSA-1 places the move “in or around August 2024,” eight months later, and
 18 then only after Shafi complained. ECF 80 (AUSA-1 Decl.) ¶¶ 6-7. Both accounts cannot be
 19 true. When the Court asked on June 11 whether the government had “investigated this issue,”
 20 the answer was: “We have.” Ex. A (Tr.) at 4:25-5:2. Yet the government’s first known
 21 interviews of Attorney-1 and the Branch Chief took place on July 16 and 17, 2026—a month
 22 after that answer. Exs. B, C. Whatever the government examined before June 11, it must have
 23 included the Office’s own files. Those files contradicted every assurance it gave. Whether or
 24 not anyone intended it, the Court was misled.

25 **D. No Less Intrusive Remedy Would Be Adequate**

26 Office-wide disqualification is appropriate where any conflict “so pervades the office
 27 that less intrusive remedies would be inadequate to safeguard against a legal violation.”
 28 *Williams*, 68 F.4th at 573. Self-policing through a screen was the less intrusive remedy, and it

1 failed. The Office had the screen, invoked it to reassure defense counsel, and withheld the
 2 record that undercut its assurances. The influence Attorney-1 exerted on the investigation
 3 cannot be undone within this Office. An impartial charging decision cannot come from the
 4 office whose leadership pushed the case forward. *See United States v. Bundy*, 968 F.3d 1019,
 5 1030 (9th Cir. 2020) (“A district court may dismiss an indictment under its inherent
 6 supervisory powers (1) to implement a remedy for the violation of a recognized statutory or
 7 constitutional right; (2) to preserve judicial integrity by ensuring that a conviction rests on
 8 appropriate considerations validly before a jury; and (3) to deter future illegal conduct”)
 9 (citation omitted); *Skains v. Lockler*, No. CIV S-06-127 LKK CHS, 2009 WL 230037, at *24
 10 (“Under the Due Process Clause of the United States Constitution, a criminal defendant is
 11 entitled to an impartial prosecutor”), *aff’d*, 386 F. App’x 620 (9th Cir. 2010).

12 Dismissal is the proportionate remedy. No prospective measure can remedy the harm
 13 from a tainted investigation and charging process.

14 **II. At Minimum, the Court Should Permit Discovery and an Evidentiary Hearing**

15 The record already supports dismissal. If the Court wants more, the government’s own
 16 disclosures show where to look. The memorandum of the July interview of Attorney-1 shows
 17 there are fact issues to resolve.

18 Even gentle questioning produced statements from Attorney-1 that the record
 19 contradicts. She told the government that “[w]hile at the USAO, [she] did not have any
 20 *substantive* discussions with anyone about the SHAFI investigation including those who were
 21 on the case team as well as those who were not.” Ex. B at 1 (emphasis added). That qualifier—
 22 “substantive”—appears six times in the three-page memorandum. *Id.* The government echoes
 23 this formulation throughout its Opposition. *E.g.*, Opp. at 15 (AUSA-1 “never discussed the
 24 substance of the investigation” with Attorney-1); *id.* at 16 (the January 3, 2024 exchange
 25 contained no “substantive discussion”); *id.* (the February staffing request “did not concern the
 26 substance of the case.”). AUSA-1’s declaration likewise disclaims any “substantive”
 27 discussion with Attorney-1. ECF 80 (AUSA-1 Decl.) ¶ 9. The word appears four more times
 28 in the Branch Chief’s three-page interview memorandum. Ex. C.

1 The government does not explain what it means by “substantive.” The qualifier
2 becomes a boundless exception to what should have been a clear and categorical screen
3 barring Attorney-1 from any involvement in the investigation. If Attorney-1 refrained only
4 from “substantive” discussions, what discussions did she have? The government is effectively
5 using “substantive” to obscure Attorney-1’s communications with the investigation team. If a
6 request to accelerate the prosecution counts as non-substantive, the label tells the Court
7 nothing about what else passed between Attorney-1 and the team.

8 The government’s own exhibits show that Attorney-1 *was* having “substantive”
9 communications with the investigation team. She flagged an article asking whether there was
10 fraud at IRL, which itself contains factual analysis and opinion. Opp., Ex. 6. And she recruited
11 a more senior prosecutor “to help move [the investigation] along,” a judgment about the
12 trajectory of the case and the composition of the prosecution team. *See id.*, Ex. 7.

13 Attorney-1 told the government that AUSA-2 was “part of the case team prior to her
14 joining the USAO.” Ex. B at 1. And the Opposition insists that Attorney-1 “had no influence
15 over any of the prosecutors who conducted the investigation or presented the charges to the
16 Grand Jury.” Opp. at 7. Yet Opposition Exhibit 7 shows Attorney-1 asking to add AUSA-2 to
17 the case team, and revealing that she had already “talked” to AUSA-2 about the prospect of
18 doing so. Opp., Ex. 7. The government never asked her about that email. *See* Ex. B. No one
19 knows what she said to AUSA-2.

20 Nor can this Court trust Attorney-1’s account. Attorney-1 told the government she
21 “could not clearly recall who was on the case team” and did not know who was assigned to
22 the investigation. Ex. B at 1. Her January 3 email went to the two prosecutors on the case and
23 the one colleague who was not but whom she later tried to recruit onto the Shafi team. Opp.,
24 Ex. 6. She told the government she had no recollection of the February 20 email and could
25 not recall why she wrote it. Ex. B. But the email explains her motive: “to help move it along.”
26 Opp., Ex. 7. The government asked her not a single question about those words.

27 Attorney-1 made a number of false statements to the government in her interview last
28 month—statements the government’s own emails contradict. Either she forgot her own

1 communications across an ethical wall, which one would have hoped was a memorable, non-
2 routine event for Attorney-1, or she lied to the government. In either scenario, she is not a
3 reliable narrator of her own conduct, and the Opposition rests on her account. That is reason
4 for the Court to probe the factual bases of the government's arguments, and to let Shafi probe
5 them too.

6 The factual record is not fully developed here. And we can see the story is incomplete
7 from the government's own tally. It says it identified only "three relevant communications
8 that Attorney-1 sent regarding the IRL investigation." Opp. at 15-16. "Sent" is doing too much
9 work: the tally excludes what she received, and it excludes the conversation she admits she
10 had with AUSA-2. But even as to those "three relevant communications," the government
11 never says where it looked for them. Did it confine the search to internal communications?
12 Did it search text messages, or only emails? Which of Attorney-1's email addresses did it
13 search? Did it search her email alone, or other attorneys' inboxes for communications that
14 may be missing from her retired DOJ account? A disclosure this selective and ambiguous
15 warrants scrutiny.

16 At minimum, discovery and a hearing are the appropriate next steps. The hearing
17 should include testimony from Attorney-1, the Branch Chief, AUSA-1, AUSA-2, and the
18 ethics official referenced in Exhibit 7. The case agents may belong on that list too: nothing in
19 the record reveals whether Attorney-1 contacted the agent whose identity she requested. The
20 Court should also order production of Attorney-1's communications about the case, her
21 tracker, the April 20, 2024 email referenced in her interview memorandum (or confirmation
22 that the reference is an error), the ethics official's screening file, and a description of the
23 government's search. The hearing should also establish what the government had reviewed
24 before it assured this Court on June 11 that a wall existed and that AUSA-1 had been removed
25 from Attorney-1's supervision as soon as she joined the Office. *See, e.g., United States v.*
26 *Marshank*, 777 F. Supp. 1507, 1511 (N.D. Cal. 1991) ("the court found that further evidence
27 was necessary in order to rule on the motion to dismiss and held an evidentiary hearing[.]");
28 *United States v. Washington*, 797 F.2d 1461, 1469 (9th Cir. 1986) (remanding "to the district

1 court for an evidentiary hearing to determine whether the 1981 federal warrant was tainted”);
 2 *United States v. Hanna*, 55 F.3d 1456, 1461 (9th Cir. 1995) (“an evidentiary hearing is a good
 3 device to ensure that a court's decisions are based on fact, not supposition.”).

4 **III. There Is No Basis to Seal Opposition Exhibits 6-8**

5 The government would keep this record from public view. It filed Exhibits 6-8 to its
 6 Opposition under seal, offering a single justification: they are “internal non-public
 7 government communications being produced under the Protective Order filed in this case.”
 8 ECF 81 at 2. That is a description, not a basis for sealing.

9 The Protective Order permits sealing of one thing: materials designated “Protected
 10 Information,” meaning “Personal Identifying Information” (“PII”) and “Financial Identifying
 11 Information” (“FII”). ECF 21 at 2, 4. The exhibits contain no Protected Information apart from
 12 email addresses, and email addresses can be redacted.

13 Whatever confidentiality the government now claims, it has not observed itself. Its
 14 publicly filed Opposition describes and quotes each exhibit directly. *E.g.*, Opp. at 16. The
 15 dilemma is the government’s own: if Exhibits 6-8 held Protected Information, those
 16 unredacted references would violate the Protective Order. ECF 21 at 3 (“If a party files a
 17 pleading that references or contains or attaches Protected Information subject to this Order,
 18 such information shall be fully redacted or that filing must be under seal.”). If they do not,
 19 there is nothing to seal.

20 The government has already treated these materials as outside the Protective Order.
 21 Shafi agrees that is the right treatment and asks the Court to deny the government’s request to
 22 seal the exhibits in their entirety. The Court should go further and unseal Exhibits 6-8, with
 23 email addresses redacted. A motion to unseal lies “at any time,” Crim. L.R. 56-1(e)(3), and
 24 sealing must be “narrowly tailored to seek sealing only of sealable material.” Crim. L.R. 56-
 25 1(b). Pretrial filings like these “are often important to a full understanding of the way in which
 26 the judicial process and the government as a whole are functioning.” *Associated Press v. U.S.*
 27 *Dist. Court*, 705 F.2d 1143, 1145 (9th Cir. 1983). Sealing requires a compelling interest
 28 supported by specific findings, not “conclusory assertions.” *Oregonian Publ’g Co. v. U.S.*

1 *Dist. Court*, 920 F.2d 1462, 1466-67 (9th Cir. 1990). The only interest this seal protects is the
2 Office's interest in not being seen. That is not a compelling one.

3 **CONCLUSION**

4 Twice the government told this Court there was a screen: in open court on June 11,
5 and again in its Opposition. Its own exhibits prove there was not. It said nothing until this
6 Motion forced the record out.

7 Shafi therefore respectfully requests that the Court dismiss the Indictment. At
8 minimum, the Court should order discovery and an evidentiary hearing to establish how badly
9 the screen was broken. The Court should also unseal Opposition Exhibits 6-8.

10 DATED: August 24, 2026

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13 By: /s/ A. Fee

14 ADAM FEE

15 Attorney for Abraham Shafi