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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 UNITED STATES OF AMERICA,

17 v.
18 Plaintiff,

19 SHENG THAO,
20 ANDRE JONES,
21 DAVID TRUNG DUONG, and
22 ANDY HUNG DUONG,

23 Defendants.

24 Case No. 4:25-CR-3-YGR

25 **DEFENDANT SHENG THAO'S
26 NOTICE OF MOTION AND MOTION
27 TO SUPPRESS AND JOINDER OF
28 DEFENDANT DAVID DUONG'S
MOTION FOR FRANKS HEARING;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

29 Date: February 19, 2026
30 Time: 9:00 a.m.
31 Judge: The Hon. Yvonne Gonzalez Rogers

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 **PLEASE TAKE NOTICE** that on February 19, 2026, at 9:00 a.m., or as soon thereafter
3 as this matter may be heard in Courtroom 1 (4th Floor) of the above-entitled court, located at
4 1301 Clay Street, Oakland, California 94612, Defendant Sheng Thao, by and through her
5 attorneys of record, will and hereby does respectfully (1) move the Court for an order
6 suppressing all evidence seized pursuant to the search warrant signed on June 14, 2024, by U.S.
7 Magistrate Judge Kandis Westmore; and (2) join Defendant David Duong's motion seeking an
8 order granting a hearing pursuant to Franks v. Delaware, 438 U.S. 154, 165 (1978), regarding
9 material misrepresentations and/or omissions in the search warrant affidavit sworn on June 14,
10 2024, before Judge Westmore (ECF No. 119).¹

11 This motion and joinder is based upon this Notice of Motion and Motion and Joinder, the
12 accompanying Memorandum of Points and Authorities and Declaration of Darryl Louis Tarver,
13 and all papers and pleadings filed in this action, and any other evidence and argument as by be
14 properly before the Court at any hearing on the Motion and Joinder.

15 | Dated: December 4, 2025 Respectfully submitted,

DLA PIPER LLP (US)

By: /s/ Jeffrey Tsai
JEFFREY TSAI
DARRYL LOUIS TARVER
Attorneys for Defendant Sheng Thao

¹ David Duong's motion inadvertently refers to the date of the search warrant affidavit (ECF No. 119, at 3) as "June 14, 2025."

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MEMORANDUM OF POINTS AND AUTHORITIES

Defendant Sheng Thao, through her counsel, hereby and respectfully moves the Court for an order suppressing all fruits of the search of Ms. Thao's residence, vehicle, and person on June 20, 2024, on the basis of material misrepresentations and/or omissions in the search warrant affidavit sworn on June 14, 2024, before Magistrate Judge Kandis Westmore (hereinafter "June 2024 Search Warrant").

Ms. Thao also respectfully joins David Duong's motion seeking an order granting a hearing pursuant to Franks v. Delaware, 438 U.S. 154, 165 (1978). See ECF No. 119.

I. INTRODUCTION

This case is built on the accusations proffered by a single government cooperator.² Neither the Indictment nor the affidavits of the dozens of search warrants produced by the government in discovery refer to a single document by or from Ms. Thao—whether a note, email, text message, or anything else by or from her—showing that she ever agreed to any bribery scheme. Instead, the allegations reflect one individual’s attempt to gain clout and riches through a housing development business and fabrication of a partnership with the now-former mayor of Oakland to advance his goal. The entirety of the government’s bribery allegations

² The cooperator is identified in the Indictment only as “Co-Conspirator 1.” The government takes the position that the Protective Order (ECF No. 39) in this case restricts disclosure of this individual’s identity. Due to the lack of agreement with the government as to this issue, the instant motion will not publicly identify this individual by name (and instead anonymizes his identity through the more accurate pseudonym “Chief Cooperator”) out of an abundance of caution.

However, the Protective Order does not, in fact, restrict the use of Chief Cooperator’s identity. In fact, it specifically contemplates that an individual’s name is not “Protected Information” for purposes of the order. See id. at 2:4-7 (stating that “Personal Identifying Information of any individual [] other than his or her name[]” constitutes “Protected Information”) (emphasis added). Moreover, there is no legal justification to pseudonymize Chief Cooperator’s identity—and, in fact, the weight of Ninth Circuit authority heavily tilts in favor of public disclosure, just as with the very Indictment in this case and its inflammatory allegations. See, e.g., Kamakana v. City & Cty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006) (recognizing the “strong presumption of in favor of access” by the public to court documents and information absent a showing of “compelling reasons” to seal the record). Here, the government cannot articulate any compelling reason to seal Chief Cooperator’s identity.

1 against Ms. Thao turns on Chief Cooperator, and it was the information supplied by Chief
 2 Cooperator that served as the probable-cause basis for the June 2024 Search Warrant.³

3 But, in relying on Chief Cooperator for its probable cause, the government made
 4 multiple material omissions in its warrant application directly bearing on Chief Cooperator's
 5 veracity and credibility—and which would have undermined the very foundation for the June
 6 2024 Search Warrant. The government's conduct was not a mistake. Indeed, the government
 7 has long known about the extraordinary breadth of Chief Cooperator's criminal and civil legal
 8 problems. In fact, while he sat for his first proffer with the government in 2024, Chief
 9 Cooperator was at that time facing state criminal charges based on conduct he then counter-
 10 attacked into an alleged bribery conspiracy involving his enemies, which in turn persuaded the
 11 government to pursue what ultimately led to the Indictment in this case.

12 But Chief Cooperator's credibility problems go well beyond his incentive to point the
 13 finger at others in this case for a scheme that he concocted. There are public records concerning
 14 a shockingly long history of criminal charges and civil disputes stemming from fraudulent acts
 15 and a habitual practice of failing to honor financial and legal obligations. The FBI agent
 16 intentionally (or recklessly) failed to describe most of these incidents in his June 2024 Search
 17 Warrant affidavit to Judge Westmore—instead, the agent summarized (and minimized) a select-
 18 few in a single discrete footnote. Critically, the agent also intentionally concealed from Judge
 19 Westmore direct evidence of Chief Cooperator's racial bias against Ms. Thao's longtime
 20 domestic partner Andre Jones, who is also a defendant in this case.

21 As a result of the government's intentional and reckless omissions, all evidence seized
 22 from the June 2024 Search Warrant should be suppressed. At a bare constitutional minimum,

23
 24

³ On June 20, 2024, federal agents conducted a broad daytime raid of the residence,
 25 vehicle, and person of Sheng Thao, who was at the time the mayor of the City of Oakland. As a
 26 result of the search, federal agents seized numerous electronic devices, along with other
 27 personal and official items. The government justified its search with a FBI special agent's sworn
 28 affidavit alleging that Ms. Thao was part of a bribery scheme in which she supposedly agreed to
 perform official acts upon becoming mayor, including most notably the purchase of housing
 units by the City of Oakland.

however, Ms. Thao is entitled to a Franks hearing in order to cross-examine the agent about the material omissions regarding Chief Cooperator and she joins David Duong's motion.

Independent of the suppression issues stemming from the government's material omissions, the government's affidavit also failed to allege with any (much less sufficient) particularity that evidence of the alleged scheme would be found in Ms. Thao's residence or vehicle. The evidence submitted in support of the government's search—consisting entirely of hearsay statements by Chief Cooperator—lacks any nexus whatsoever with Ms. Thao's residence or vehicle. As a result, any and all evidence seized during those searches must be suppressed on this independent basis.

II. FACTUAL BACKGROUND

A. The Government's Investigation and the Alleged Scheme

This case arises from allegations of a public corruption scheme made during another government investigation of Chief Cooperator for failing to pay for a political mailer. See Declaration of Darryl Louis Tarver (“Tarver Decl.”) Ex. 1 (June 14, 2024, Affidavit of Duncan Haunold) ¶¶ 24-25. The investigation of Chief Cooperator began with a report by “Victim 1,”⁴ who claimed that Chief Cooperator failed to pay the postage for mailers that were printed with negative statements about candidates in the November 2022 mayoral election. Id. Ex. 1 ¶ 25. During its investigation of Chief Cooperator, the government obtained information about Chief Cooperator’s involvement in a number of bribery schemes and attempts involving public officials and political candidates in and around Oakland. Id. Ex. 1 ¶ 30 n.2 (alleging Chief Cooperator’s participation in “various other criminal schemes” including “bribery of other public officials beyond the scheme covered in this affidavit”).

The government obtained information from Chief Cooperator’s Apple iCloud account in furtherance of its investigation. Id. Ex. 1 ¶ 25. Then, the government sought and obtained warrants to authorize other searches, including searches of Apple iCloud information from nine separate electronic accounts belonging to several other individuals, including Ms. Thao and the

⁴ Victim 1's name is omitted from the affidavit.

1 other defendants in this case.⁵ See id. Ex. 2 ¶ 1.

2 Based on the information obtained in its investigation, the government alleges that
 3 Defendants Andy Duong and David Duong (referred to collectively herein as the “Duongs”) and
 4 Chief Cooperator conspired to solicit Ms. Thao’s agreement to perform certain official acts if
 5 she was elected Oakland mayor. Id. Ex. 1 ¶ 24; see also ECF No. 1. The government alleges that
 6 those official acts included the purchase of housing units from an affordable housing company
 7 called Evolutionary Homes in which the Duongs and Chief Cooperator were affiliated. Id. In
 8 exchange for the supposed agreement from Ms. Thao, the Duongs and Chief Cooperator agreed
 9 to fund a negative mailer campaign and make direct financial payments to Defendant Andre
 10 Jones, Ms. Thao’s longtime domestic partner. Id. Ex. 1 ¶ 20, 24.

11 **B. The June 2024 Affidavit’s Reliance on Information from Chief Cooperator**

12 On June 14, 2024, Judge Westmore issued the warrant to search Ms. Thao’s residence
 13 and vehicle. Id. Ex. 3. During the June 2024 search, federal agents seized numerous electronic
 14 devices, documents and other items belonging to Ms. Thao, both personally and in her capacity
 15 as mayor of Oakland. FBI Special Agent Duncan Haunold submitted a sworn affidavit in
 16 support of the warrant, which was also submitted in support of warrants to search several of the
 17 Duongs’ places of business and their personal homes and vehicles. Id. Ex. 1 ¶ 1.

18 The agent’s affidavit relied heavily on statements from Chief Cooperator and
 19 information from Chief Cooperator’s Apple iCloud account. Id. ¶ 25-26. The agent also cited
 20 checks deposited into Mr. Jones’s checking account from Evolutionary Homes in October 2022,
 21 December 2022, April 2023 and November 2023. Id. ¶ 27. The government alleges these checks
 22 were payments in exchange for Ms. Thao’s supposed agreement to purchase housing units from
 23

24 ⁵ As to Ms. Thao, those warrants include a February 2024 warrant for her Apple iCloud
 25 accounts and a May 2024 warrant for her Google account. However, the warrants authorize the
 26 search and seizure of evidence outside of the date range for which the government proffered any
 27 probable-cause facts. See, e.g., Tarver Decl. Ex. 2 ¶¶ 32-84 (alleging facts relevant to Ms. Thao
 28 between October 2022 and April 2023). See, e.g., In re Search of Google Accounts identified in
Attachment A, 92 F. Supp. 3d 944, 952-53 (D. Alaska 2015); United States v. Lofstead, 574 F.
 Supp. 3d 831, 843 (D. Nev. 2021). Thus, these additional warrants would merit suppression.

1 Evolutionary Homes on behalf of the City of Oakland. Id. ¶ 27. Chief Cooperator provided this
 2 explanation for the checks during a meeting he had with the government on June 6, 2024,
 3 pursuant to a proffer agreement. Id. ¶ 30.

4 Despite the government's possession of the contents from multiple electronic accounts
 5 used by Ms. Thao, the affidavit fails to provide documentary evidence of any statements by Ms.
 6 Thao proving her involvement in the alleged corruption scheme. Instead, the agent relies largely
 7 on communications between Chief Cooperator and others, supplemented by Chief Cooperator's
 8 statements about Ms. Thao's involvement.

9 Below are examples of these communications and related allegations:

10 **1. The affidavit's allegation about an October 7, 2022 meeting.**

11 The agent alleges that Ms. Thao—as a mayoral candidate—met with Chief Cooperator
 12 on October 7, 2022, based on October 5, 2022, text messages between the two discussing a plan
 13 to meet that upcoming Friday. Id. Ex. 1 ¶ 47-48. Chief Cooperator did not remember such a
 14 meeting taking place on October 7. Id. Ex. 1 ¶ 55. Nevertheless, the agent concludes that Ms.
 15 Thao and Chief Cooperator laid out the terms of the corruption scheme at that meeting. Id. Ex. 1
 16 ¶¶ 52-53.

17 According to the agent, the scheme is outlined in a note-to-self found in Chief
 18 Cooperator's Apple iCloud account called "To do :: October :: 2022." Id. Ex. 1 ¶ 49. The note
 19 references a "1:30 Meeting with Sheng Thao," "Help on Mayoral Race," "IE against Ignacio,"
 20 "Evolutionary Homes LLC," and "100 Units bought / Andre get a job for \$300k per year." Id.
 21 Ex. 1 ¶ 49. Based on Chief Cooperator's June 6 proffer meeting, the agent concludes that this
 22 was a list of topics discussed with Ms. Thao related to a bribery scheme. Id. Ex. 1 ¶ 50. But the
 23 note was created on September 30, 2022—several days before Ms. Thao and Chief Cooperator
 24 ever exchanged messages about a meeting—and was last modified on November 7, 2022. Id.
 25 Ex. 1 ¶ 49.

26 The agent also refers to an October 7, 2022, text message exchange between Chief
 27 Cooperator and Andy Duong in which Chief Cooperator tells Andy that Ms. Thao "will buy 100
 28 units" with "one catch:" "300k contract." Id. Ex. 1 ¶ 53. Chief Cooperator's statements from the

1 Apple Note, the text messages with Andy Duong, and the June 6, 2024, proffer are the sole
 2 evidence in the affidavit supporting Ms. Thao's commitment to these terms on October 7, 2022.

3 **2. Chief Cooperator's March 26, 2023, Apple note.**

4 The affidavit also references a March 26, 2023, Apple note from Chief Cooperator's
 5 iCloud account entitled "Deal Points for Sheng Thao :: Election :: Post Election ::" which Agent
 6 Haunold alleges was created and last modified on March 26, 2023. Id. Ex. 1 ¶ 90. The note does
 7 not coincide with any alleged meeting or contact between Chief Cooperator and Ms. Thao, who
 8 was then mayor of Oakland. Nevertheless, the agent concludes, based on Chief Cooperator's
 9 proffer, that this note reflects the "original 'deal'" between Chief Cooperator, the Duongs, Mr.
 10 Jones and Ms. Thao. Id. Ex. 1 ¶ 91.

11 Among other purported details, the note mentions "We will invest \$75k cash to hit
 12 voters with mailers – CWS" and other actions "For:"

13 The purchase of 300 of our modular units at a price point of \$300,000 each FOB
 14 at Oakland

15 AJ will be part of development team paid \$300k flat on sale of units – contract
 16 maybe renew for other clients

17 We will get a 10 year extension for CWS from Mayor staff

18 We will get land deal at Army base done from Mayor staff

19 One appointment to Port of Oakland commission

20 Appointments to 1. Public Works 2. Building and Permits 3. Housing and 4. City
 21 administrators office

22 Id. Ex. 1 ¶ 90. The agent alleges this note was shared and discussed with Andy Duong, but he
 23 does not allege Ms. Thao ever saw the note, reviewed the note, or otherwise evidenced an
 24 agreement to it. Id. Ex. 1 ¶ 92. The agent also concedes that none of the purported terms
 25 described above were carried out by Ms. Thao or her staff. Id. Ex. 1 ¶¶ 93, 138.

26 **3. Chief Cooperator's unsigned "Letter of Interest" attributed to Ms. Thao.**

27 The agent also alleges that on March 4, 2023, Chief Cooperator sent Andy Duong a
 28 Microsoft Word document entitled "letter of interest by city of Oakland for 300 units to
 evolutionary homes." Tarver Decl. Ex. 1 ¶ 79. This letter, which Chief Cooperator authored

1 with Ms. Thao's name, purported to set forth Ms. Thao's intention for Oakland to purchase a
 2 "minimum of 300 units of housing" from Evolutionary Homes. Id. During his June 6, 2024,
 3 proffer with the government, Chief Cooperator claimed he was hoping Ms. Thao would sign the
 4 letter. Id. Ms. Thao never signed the letter, and there is no allegation that it was ever provided to
 5 her. Id. Ex. 1 ¶¶ 80, 138.

6 **4. Chief Cooperator's expressed doubts about Ms. Thao's alleged commitment.**

7 Though the agent alleges that Ms. Thao promised as early as October 2022 to perform
 8 official acts, Chief Cooperator expressed concerns nearly a year later (in September 2023) that
 9 "[Ms. Thao] is fucking with us" and never planned to deliver the objects of the alleged scheme,
 10 namely the purchase of the housing units from Evolutionary Homes. Id. Ex. 1 ¶ 116. The agent
 11 alleges that by as of March 2023, the amount to be paid to Mr. Jones (ostensibly for Ms. Thao's
 12 benefit) was \$10,000 per unit sold, or \$3 million if the City of Oakland was committed to
 13 purchasing a minimum of 300 units as alleged. Id. ¶ 105. Despite this large financial incentive,
 14 Chief Cooperator expressed doubts about whether Ms. Thao would conduct the purchase on
 15 behalf of the City of Oakland, and the purchase was never completed. Id. ¶ 93.

16 **C. Material Omissions Related to Chief Cooperator's Credibility and Trustworthiness**

17 Though he serves as the main source of information cited in the agent's affidavit, Chief
 18 Cooperator's history of credibility issues is extensive. In a purposeful attempt to minimize a
 19 staggering background of fraudulent activities over the course of multiple decades, the
 20 government instead dropped a brief and discrete footnote acknowledging only a misleading
 21 portion of this history. Id. Ex. 1 ¶ 30 n.2. However, the omissions reflect a history of lying to
 22 escape consequences for debts and other legal problems, as well as racial bias directly related to
 23 at least one of the defendants in this case. Id. Exs. 4-13.

24 **1. Chief Cooperator's long history of legal issues.**

25 The government launched its investigation into Chief Cooperator based on Victim 1's
 26 report that Chief Cooperator failed to pay the postage for campaign mailers. Tarver Decl. Ex. 1
 27 ¶¶ 32-34. Agent Haunold further admits that Chief Cooperator was facing state charges in
 28 connection with his failure to pay for the mailers (which were still pending at the time of the

1 June 14, 2024, affidavit) when Chief Cooperator proffered information about the alleged bribery
 2 scheme among the Duongs, Mr. Jones and Ms. Thao. Id. ¶¶ 30 n.2, 33.

3 Chief Cooperator's legal issues go back three decades, to at least 1996. Id. ¶ 30, n.2.
 4 Agent Haunold acknowledges that Chief Cooperator has since then been the subject of at least
 5 five criminal charges, including battery, grand theft and embezzlement, among others. Id.
 6 However, the affidavit falls well short of addressing the totality of Chief Cooperator's history of
 7 criminal and civil legal issues. Agent Haunold specifically failed to address several episodes
 8 that would have starkly called Chief Cooperator's credibility into question:

- 9 • **Grand Theft and Forgery.** Chief Cooperator was charged with felony grand
 10 theft and forgery in connection with a 2012 real estate transaction that he brokered
 11 as a licensed agent. See id. Ex. 4 at 6. The California Department of Real Estate
 12 investigated the transaction and found that Chief Cooperator had ripped off the
 13 tenant by having him pay a \$21,000 security deposit and a broker's fee of
 14 \$10,000, while Chief Cooperator gave the landlord a check of \$7,000 and kept the
 15 rest of the tenant's payment for himself. Id. Ex. 5. Chief Cooperator voluntarily
 16 surrendered his real estate license in 2015. Id. Ex. 6. Chief Cooperator resolved
 17 the criminal case against him by pleading no contest to a misdemeanor in 2016,
 18 and he was separately ordered to pay \$23,000 to the tenant. Id. Ex. 7.
- 19 • **Fraudulent Real Estate License Representation.** When he made a political
 20 campaign donation in 2018, Chief Cooperator listed "real estate broker" on the
 21 campaign disclosure form, despite his surrender of his real estate license in 2015.
 22 Id. Ex. 8. Remarkably, Agent Haunold describes Chief Cooperator as the CEO of
 23 a real estate business but fails to disclose either Chief Cooperator's surrender of
 24 his real estate license or his documented history of fraud, theft and other
 25 dishonesty in connection with real estate deals. Id. Ex. 1 ¶ 16.
- 26 • **Fraudulent Real Estate Sales Representation.** In 2006, buyers in a real estate
 27 sale brokered by Chief Cooperator sued Chief Cooperator and one of his
 28 companies accusing Chief Cooperator of "intentionally, willfully, maliciously,
 29 recklessly and unreasonably" failing to disclose defects in the property. Id. Ex. 9.
 30 Chief Cooperator reached a settlement in the case in 2008. Id. Ex. 10 at 2 (noting
 31 "Plaintiff has recently settled with [Chief Cooperator]").
- 32 • **Fraudulent Check Writing.** During his brief stint as a music promoter, Chief
 33 Cooperator was accused of bouncing a \$20,000 check for travel expenses for one
 34 of his bands and making an unauthorized purchase of 53 music festival tickets
 35 using the credit card of a real estate broker. Id. Ex. 11.
- 36 • **Fraudulent Check Writing.** In January 2024, the former Alameda County
 37 District Attorney charged Chief Cooperator with fraud in connection with the
 38 bounced checks he provided in connection with the mailers targeting candidates in
 39 the November 2022 election. Id. Ex. 12. In response to the charges, Chief

1 Cooperator accused the former District Attorney of corruption and vindictive
 2 prosecution. Id. Chief Cooperator's allegations regarding the former District
 3 Attorney were never proven, and at the time of the June 2024 search warrant, the
 4 Alameda County District Attorney's charges against Chief Cooperator remained
 5 pending. Id. Ex. 1 ¶ 30 n.2.

6 Not a single one of the aforementioned incidents (nor the incidents described in David Duong's
 7 motion) were recounted in Agent Haunold's affidavit despite being publicly available to the
 8 government (and anyone with access to the Internet).

9 **2. Chief Cooperator's documented racial animus.**

10 In addition to Chief Cooperator's long history of civil and criminal misconduct, the
 11 government's evidence in this case reflects Chief Cooperator's affirmative expression of racial
 12 bias against Mr. Jones, a black man. The agent's affidavit specifically omitted a text message in
 13 a string of messages that is plainly and demonstrably racially biased. In the March 26, 2023, text
 14 message string between Chief Cooperator and Andy Duong, the agent intentionally and
 15 conspicuously removed the racially offensive statement by replacing it with convenient ellipses
 16 ("..."), as shown below.⁶

17 88. [REDACTED] and A. DUONG continued to message as follows on or about March 26,
 18 2023:

19 [REDACTED]: AJ wants direct access ton\$\$
 20 [REDACTED]: Thinks it works like that
 21 [REDACTED]: When we put the plans together for \$ and otherwise
 22 ...
 23 A. DUONG: Well he wants that access better get to work
 24 [REDACTED]: I feel sure David will back us up
 25 A. DUONG: Aint nothing free or front cuz we did all that to help her ass win

26 Id. Ex. 1 ¶ 88.

27 However, the evidence produced by the government in discovery reveals the material
 28 omission (shown below in bold emphasis) that the agent concealed from Judge Westmore:

29 CHIEF COOPERATOR: AJ wants direct access ton\$\$

30 _____
 31 ⁶ Chief Cooperator's identity has been redacted out of an abundance of caution, but there
 32 is no legal or factual justification for redaction or sealing of such information. See supra n.2.

1 CHIEF COOPERATOR: Thinks it works like that
 2 CHIEF COOPERATOR: When we put the plans together for \$ and otherwise
 3 **CHIEF COOPERATOR: Stupid black shit**
 4 **CHIEF COOPERATOR: Don't think how things get done**
 5 A. DUONG: Well he wants that access better get to work
 6 CHIEF COOPERATOR: I feel sure David will back us up
 7 A. DUONG: Aint nothing free or front cuz we did all that to help her ass win
 8 Id. Ex. 13 (emphasis added).

9 III. LEGAL STANDARD⁷

10 Under the Fourth Amendment, “no warrants shall issue, but upon probable cause,
 11 supported by oath or affirmation, and particularly describing the place to be searched, and the
 12 persons or things to be seized.” U.S. Const. Amend. IV. The warrant affidavit “must set forth
 13 particular facts and circumstances … so as to allow the magistrate to make an independent
 14 evaluation of the matter.” United States v. Perkins, 850 F.3d 1109, 1116 (9th Cir. 2017)
 15 (quoting Franks, 438 U.S. at 165). Although evidence “obtained in objectively reasonable
 16 reliance on a subsequently invalidated search warrant” does not warrant suppression, an
 17 affidavit “so lacking in indicia of probable cause as to render official belief in its existence
 18 entirely unreasonable” means that there can be “no reasonable grounds for believing that the
 19 warrant was properly issued[.]” United States v. Leon, 468 U.S. 897, 922 (1984). In that
 20 situation, suppression is necessary. Id.

21 With respect to the factual showing to constitute probable cause, the “obvious
 22 assumption is that there will be a truthful showing.” Franks, 438 U.S. at 164-65 (citation
 23 omitted) (emphasis in original). A defendant challenging a warrant’s validity by questioning the
 24 fundamental truthfulness of the factual statements made in the supporting affidavit is entitled to
 25 a Franks evidentiary hearing once she makes a substantial preliminary showing that (1) “the

26
 27 ⁷ Ms. Thao adopts and incorporates the legal standard set forth in David Duong’s
 28 memorandum and therefore includes a shortened version herein. See ECF No. 119 at 8-11.

1 affiant officer intentionally or recklessly made false or misleading statements or omissions in
 2 support of the warrant" and (2) "the false or misleading statement or omission was material, i.e.,
 3 necessary to finding probable cause." See United States v. Perkins, 850 F.3d 1109, 1116 (9th
 4 Cir. 2017) (citation omitted). A district court's denial of a motion seeking a Franks hearing is
 5 reviewed de novo. See United States v. Napier, 436 F.3d 1133, 1136 (9th Cir. 2006).

6 At a Franks hearing, the court considers evidence to determine if the defendant can
 7 establish perjury or reckless disregard by a preponderance of the evidence. Franks, 438 U.S. at
 8 155-56; United States v. Martinez Garcia, 397 F.3d 1025, 1214-15 (9th Cir. 2005). Suppression
 9 of all fruits of the search is appropriate if the defendant establishes that the affidavit is
 10 insufficient to establish probable cause after the court disregards the false material. Id.

11 **IV. ARGUMENT**

12 **A. Ms. Thao is Entitled to a Franks Hearing Because the Agent's Search Warrant 13 Affidavit Contained Intentional and Reckless Omissions of a Material Nature**

14 Ms. Thao joins in David Duong's motion for a Franks hearing (ECF No. 119 at 11-20).
 15 Based on the affidavit, Ms. Thao can make a substantial preliminary showing that Agent
 16 Haunold intentionally and recklessly omitted material information from Judge Westmore. As
 17 such, she is entitled a Franks hearing.

18 First, Agent Haunold intentionally omitted significant information about Chief
 19 Cooperator's significant history of dishonesty. See, e.g., id. at 12-13 (citing 33 lawsuits filed
 20 against Chief Cooperator, including fraud cases involving former business partners and the City
 21 of Oakland). And even as to disclosures that Agent Haunold did make about Chief Cooperator,
 22 they were misleading at best due to the selective and incomplete nature of the disclosures. See,
 23 e.g., id. at 13 (arguing that the affidavit's description of Chief Cooperator as a real estate
 24 business CEO failed to disclose that Chief Cooperator was forced to surrender his real estate
 25 license following fraud allegations by the California Department of Real Estate). Agent
 26 Haunold also concealed from Judge Westmore that Chief Cooperator has a documented
 27 counter-attack history of alleging misconduct by others in response to accusations (and
 28 lawsuits) lodged against him. See, e.g., id. at 21-13 (citing examples in which Chief Cooperator

1 filed a police report against a creditor to whom he owed \$210,000 and accused the attorney of a
 2 landlord suing Chief Cooperator of perjury). In one public counter-attack example, Chief
 3 Cooperator responded to check fraud charges filed against him by the Alameda County District
 4 Attorney's Office by accusing the now-former district attorney of soliciting a bribe. See Tarver
 5 Decl. Ex. 11. That the accusation is both unproved and uncorroborated has been an irrelevant
 6 consideration to Chief Cooperator's counter-attack history. And while Agent Haunold disclosed
 7 the Alameda County criminal charges as "currently pending," he intentionally—or, at a
 8 minimum, recklessly—misled Judge Westmore by failing to disclose Chief Cooperator's
 9 documented pattern of lodging counter-accusations against his perceived enemies.

10 In addition to the omissions set forth in David Duong's Franks motion (ECF No. 119),
 11 the government also intentionally concealed evidence of Chief Cooperator's documented racial
 12 animus against one of the defendants in this case. Agent Haunold knew this when he swore to
 13 his affidavit, but he intentionally excluded it (likely due to the impact such evidence would bear
 14 on Chief Cooperator's believability). In quoting a text-message string between Chief
 15 Cooperator and Andy Duong, Agent Haunold surgically concealed (via an in-text ellipses) two
 16 specific lines of racially derogatory statements by Chief Cooperator ("Stupid black shit"
 17 followed by "Don't think how things get done") (Tarver Decl. Ex. 13, at 2)—which can only be
 18 explained as an effort to preserve Chief Cooperator's credibility by hiding any evidence of race-
 19 based bias. As a result of Agent Haunold's intentional omissions, his affidavit's interpretations
 20 of the meaning of the text message statements (id. Ex. 1 ¶ 89) did not reveal Agent Haunold's
 21 "belie[f]" of what Chief Cooperator was referencing with his "Stupid black shit" slur and
 22 "Don't think how things get done" insult. But there can be no dispute that the meaning is
 23 anything other than a race-bias motivation.

24 Second, the numerous omissions are material because they speak directly to Chief
 25 Cooperator's veracity and habitual tendency to fabricate, as well as to some kind of racial
 26 animus motivating Chief Cooperator's allegations. Issues of credibility are plainly relevant to
 27 the believability of information in this circumstance. See, e.g., United States v. Hall, 113 F.3d
 28 157, 161 (9th Cir. 1997) (affirming suppression of a warrant when "the FBI knew more about

1 the informant, information which entirely disclosed his credibility, and did not disclose it”). Had
 2 the omissions here been properly disclosed, they would have changed the complexion of the
 3 probable-cause analysis for Judge Westmore because the government’s probable cause—
 4 whether in the form of Chief Cooperator’s statements to the government or his documents—
 5 inextricably relied on the believability and veracity of Chief Cooperator. Underscoring this
 6 point, Agent Haunold’s affidavit does not contain even a single citation to a direct statement or
 7 document by or from Ms. Thao. See generally Tarver Decl. Ex. 1 ¶¶ 46-127. Instead, each and
 8 every link to Ms. Thao comes through the prism and filter of Chief Cooperator.

9 Without Chief Cooperator, there is no probable cause of any crime committed by Ms.
 10 Thao. At a minimum, the evidence of material omissions constitutes a substantial preliminary
 11 showing. As a result, Ms. Thao is entitled to a Franks evidentiary hearing.

12 **B. The Affidavit Lacks Probable Cause to Support the Search of Ms. Thao’s Residence,
 13 Vehicle and Person**

14 **1. The affidavit lacks probable cause that Ms. Thao was a member of the
 15 alleged bribery scheme.**

16 Given Chief Cooperator’s documented history of untrustworthy statements and conduct,
 17 the affidavit lacks probable cause that Ms. Thao participated in an alleged bribery scheme. If an
 18 informant is “not worthy of belief,” then the information supplied by that informant does “not
 19 amount to probable cause.” Hall, 113 F.3d 157 (9th Cir. 1997). Moreover, when the
 20 “government present[s] no evidence to the magistrate . . . except the word of a man whom it
 21 knew had a substantial criminal record,” the fruits of the search should be suppressed. Id. at
 22 161. Particularly where, as here, there is no evidence removed from the informant’s credibility
 23 problems that incriminate the defendant, suppression is appropriate. See id.

24 First, the agent points to no communications by or from Ms. Thao about the alleged
 25 bribery scheme being pushed by Chief Cooperator. This is despite the fact that the government
 26 had access to the contents of three of Ms. Thao’s iCloud accounts—all of which have failed to
 27 yield even a single text, email, note or any other statement allegedly authored by Ms. Thao
 28 evidencing bribery as charged here. See generally Tarver Decl. Exs. 1 & 2. Instead, each and
 every instance of the government’s proffered probable cause as to Ms. Thao filters through

1 Chief Cooperator's statements, written words, and sole interpretation. See, e.g., id. Ex. 1 ¶ 30
 2 (relying on Chief Cooperator's statements during his proffer regarding Ms. Thao's involvement
 3 in the alleged scheme). And not only does the agent rely on Chief Cooperator's notes-to-self,
 4 but the agent also relies on Chief Cooperator's after-the-fact explanations during his proffer
 5 about those notes. See, e.g., id. ¶¶ 50 ("In the June 6 interview, [Chief Cooperator] confirmed
 6 that this note was a list of topics that were discussed with [Ms. Thao] related to the bribery
 7 scheme"), 91 ("I believe the above-described note is a summary created by [Chief Cooperator]
 8 of the original 'deal' negotiated between [Chief Cooperator and Defendants]. [Chief
 9 Cooperator] confirmed this fact during the June 6 interview.") (emphasis added).

10 Second, even if these notes could be treated as reliable information in the first instance
 11 from a documented truth-teller, they still fail to prove anything more than a bribery scheme
 12 constructed by Chief Cooperator and corroborated only by Chief Cooperator—and certainly not
 13 the knowing and affirmative involvement of Ms. Thao. Although the agent claims Chief
 14 Cooperator's notes memorialize Ms. Thao's agreement to the bribery scheme (again, according to
 15 Chief Cooperator), see id. ¶¶ 50, 91, that cannot be true as a pure factual matter. Neither note was
 16 created or modified at or near the times of the alleged meetings between Ms. Thao and Chief
 17 Cooperator in which there were supposed discussions of the terms of the purported scheme. For
 18 instance, the note entitled "1:30 Meeting with Sheng Thao" was created on September 30, 2022
 19 (several days before Chief Cooperator and Ms. Thao even agreed to meet) and last modified on
 20 November 7, 2022 (weeks after the alleged meetings on October 7 and 11, 2022). Id. ¶ 49. And
 21 the note entitled "Deal Points for Sheng Thao :: Election :: Post Election::" was created on March
 22 26, 2023, weeks after any meeting or communication between Ms. Thao and Chief Cooperator
 23 alleged in the affidavit. Id. ¶ 90. Far from establishing that Ms. Thao knowingly and intentionally
 24 agreed to terms in connection with some kind of illegal scheme, these notes appear to be Chief
 25 Cooperator's own fever-dream ideas about how he could deceive others into believing mayoral
 26 candidate Thao was in his pocket. Chief Cooperator clearly wanted others to believe he had an
 27 agreement with Ms. Thao, but no such agreement existed in reality—and certainly not an
 28 agreement to which Ms. Thao had entered (with Chief Cooperator or otherwise).

1 Perhaps one of the most striking examples of Chief Cooperator’s lies about Ms. Thao’s
 2 involvement in any bribery scheme is his sharing of a fake “letter of interest”—purportedly
 3 from Ms. Thao—with Andy Duong on March 4, 2023. Chief Cooperator attempted to pass off
 4 the letter as coming from Ms. Thao, though he admitted that the letter was unsigned. Id. ¶ 79.
 5 More importantly, there is no evidence of any kind that can actually corroborate Ms. Thao ever
 6 saw or knew of this letter—it was, at all times, an invention of Chief Cooperator. See id. ¶ 80.
 7 Instead, what is quite clear is that Chief Cooperator wanted it to appear as if Mayor Thao had
 8 signed off on a letter of interest even though no such thing had happened.

9 Third, the evidence reflects that Chief Cooperator did not harbor an actual belief there
 10 was any kind of bribery agreement involving Ms. Thao. Agent Haunold alleges that Chief
 11 Cooperator told Andy Duong in October 2022 that Ms. Thao’s agreement was “guaranteed.” Id.
 12 ¶ 53. But nearly a year later, in September 2023, Chief Cooperator himself began to downplay
 13 with Andy Duong the idea that there was, in fact, any agreement at all. Id. ¶ 116 (“I got this
 14 nagging feeling that Sheng is fucking with us”). This doubt undermines the government’s Chief
 15 Cooperator-fueled fabrication that a meeting of the minds took place on October 7, 2022.

16 Fourth, the agent acknowledges that none of the purported promises made by Ms. Thao
 17 were fulfilled— much less progress or any effort or steps to fulfillment. See id. ¶ 93 (Chief
 18 Cooperator confirmed that the city never purchased any of the promised units from
 19 Evolutionary Homes). Chief Cooperator’s Apple note entitled “Deal Points for Sheng Thao::
 20 Election :: Post Election::” contemplated that the mayor would agree to cause the City of
 21 Oakland to purchase 300 housing units from Evolutionary Homes, but that never happened. Id.
 22 ¶ 90. Chief Cooperator’s note also contemplated that the mayor’s staff would “get a land deal at
 23 Army base done,” but there is no evidence that ever happened. Id. 93. According to the
 24 government’s theory, Ms. Thao and Mr. Jones would have received \$3 million if she had
 25 fulfilled these promises she made to the conspiracy. See id. ¶ 98 (the alleged agreement
 26 indicates that Jones would receive a \$10,000 bonus per unit sold, and the alleged deal was for
 27 the city to purchase a minimum of 300 units). Yet, the agent makes no allegation that Ms. Thao
 28 even made progress toward fulfilling these alleged commitments. That is because there’s no

1 evidence she agreed to them beyond the unverifiable word of Chief Cooperator.

2 The affidavit fails to meet its burden to show probable cause that Ms. Thao committed
3 any crime.

4 **2. The affidavit lacks probable cause that evidence of the alleged bribery
5 scheme would be found in Ms. Thao's residence or vehicle.**

6 With or without Chief Cooperator's unreliable statements, the affidavit still fails to
7 establish probable cause that evidence of the alleged scheme would be found in Ms. Thao's
8 residence or vehicle. “[I]t is beyond dispute that the home is entitled to special protection as the
9 center of the private lives of our people[.] … We have, after all, lived our whole national history
10 with an understanding of ‘the ancient adage that a man’s house is his castle[.]’” Georgia v.
11 Randolph, 547 U.S. 103, 115 (2006) (internal alterations and citations omitted). Accordingly,
12 “probable cause to believe that a suspect has committed a crime is not by itself adequate to
13 secure a search warrant for the suspect’s home.” United States v. Ramos, 923 F.2d 1346, 1351
14 (9th Cir. 1991) (citations omitted), overruled on other grounds by United States v. Ruiz, 257
15 F.3d 1030 (9th Cir. 2001). Instead, “there must exist reasonable cause to believe that the things
16 listed as the objects of the search are located in the place to be searched.” Id.

17 Here, the government fails to make the particularized showing required to justify the
18 searches of Ms. Thao’s home or vehicle. The government claims the conspiracy was formed
19 through electronic communications and a series of meetings. See Tarver Decl. Ex. 1 ¶¶ 46-117.
20 But none of the alleged conduct is purported to have taken place at Ms. Thao’s residence. See
21 id. Lacking any evidence of a nexus between the alleged scheme and Ms. Thao’s residence, the
22 agent resorts to generic and boilerplate allegations purporting to be based on the agent’s
23 “training, investigative experience, and discussions with other law enforcement officers.” Id.
24 Ex. 1 ¶ 157.⁸ The next several paragraphs of the affidavit purport to describe general tendencies

25 _____
26 ⁸ The agent states that he has been employed with the FBI since June 2021, approximately
27 three years before the affidavit was sworn. Tarver Decl. Ex. 1 ¶ 4. The agent’s three years of
28 experience include his training at the FBI Academy in Quantico, Virginia. Id. The agent does not
specify how many public corruption investigations he has led or participated in to inform the
“training [and] investigative experience” on which he so heavily relies. Id. ¶ 157-65.

1 of “individuals like [Defendants] and other who are involved in bribery schemes.” Id. ¶¶ 157-
 2 65. These appear to be copied and pasted from another affidavit because they rely on language
 3 that has nothing to do with this case or any of the defendants. For example, the agent claims that
 4 “[i]ndividuals like [Defendants]” maintain “photographs of items relevant to their schemes or
 5 trophy-shots of ill-gotten gains,” when there is no allegation that any defendant in this case has
 6 either of these things. Id. ¶ 158.

7 Copy-pasted boilerplate paragraphs like these miss the mark to establish probable cause.
 8 See United States v. Weber, 923 F.2d 1338, 1345 (9th Cir. 1990) (rejecting warrant’s reliance
 9 on “rambling boilerplate recitations designed to meet all law enforcement needs” that were not
 10 “drafted with the facts of this case or this particular defendant in mind”); United States v.
 11 Underwood, 725 F.3d 1076, 1084 (9th Cir. 2013) (rejecting warrant’s reliance on “conclusory
 12 allegations” that did not include “underlying facts that the issuing judge may use to evaluate the
 13 affiant’s reasoning or to draw his or her own inferences”). Boilerplate paragraphs are
 14 insufficient because they lack particularity and could be applied to any individual. See Weber,
 15 923 F.2d at 1338 (affirming suppression of warrant in light of boilerplate justifications in the
 16 affidavit which “would [] justify virtually any search of the home of any person” suspected of a
 17 crime at any time). Particularly where, as here, there is a tenuous connection between the
 18 alleged crime and the individual whose privacy rights are at stake, generalized and speculative
 19 allegations of the evidence to be found in the home are inadequate. See, e.g., Underwood, 725
 20 F.3d at 1082 (affirming suppression of a warrant based on an affidavit that included limited
 21 facts “foundationless expert opinion, and conclusory allegations”).

22 The affidavit lacks any particularized facts indicating any basis (whether due to probable
 23 cause, good faith, or otherwise) justifying searches of Ms. Thao’s residence and vehicle. Other
 24 than attracting extraordinary media attention through its daytime raid at her Oakland home in
 25 late June 2024 and fueling a moribund recall-election effort, the search of Ms. Thao’s residence
 26 and vehicle plainly constituted government overreach without any legal justification. As such,
 27 evidence seized from the search must be suppressed.

28

3. The Leon exception does not apply because the absence of probable cause was readily apparent to any reasonable agent.

The government also cannot rely on the Leon exception, which requires that the agents acted reasonably and in good faith. When law enforcement agents obtain evidence “in objectively reasonable reliance on a subsequently invalidated search warrant,” suppression is not required. Leon, 468 U.S. at 897. But in cases where no factual nexus exists between the place to be searched and the alleged crime, Leon cannot salvage the fruits of the search. See, e.g., United States v. Hove, 848 F.2d 137, 140 (9th Cir. 1988) (declining to apply Leon where affidavit failed to “offer an explanation of why the police believed they may find incriminating evidence” at defendant’s residence); United States v. Luong, 470 F.3d 898, 903-04 (9th Cir. 2006) (declining to apply the good-faith exception where the affidavit “contain[ed] no appreciable indicia of probable cause,” including no factual basis linking the suspected methamphetamine activity to the residence to be searched). Also, the agent’s concealment of material facts regarding Chief Cooperator’s credibility negates a finding that the agent acted in good faith. See United States v. Carlton, No. 3:23-CR-00094-SLG-MMS-1, 2025 LX 37393, at *15 (D. Alaska Feb. 18, 2025) (“A necessary element of a Franks showing is intentionality or recklessness, and either negates the good faith exception.”).

Here, the “affidavit is so lacking in indicia of probable cause that official belief in its existence is objectively unreasonable.” Luong, 470 F.3d at 902 (quoting Leon, 468 U.S. at 914). In particular, there is a lack of any factual nexus whatsoever to Ms. Thao’s home or vehicle, and the only allegations related to those locations are boilerplate recitations of what the agent has learned from ambiguous “training, knowledge and experience” about other individuals involved in bribery schemes. See Tarver Decl. Ex. 1 ¶¶ 157-65. Accordingly, the Leon exception does not apply.

V.CONCLUSION

For the foregoing reasons, Ms. Thao respectfully (1) joins David Duong's motion for a Franks hearing in connection with the June 2024 premises warrant and (2) moves the Court for an order suppressing the evidence obtained in the June 2024 search of Ms. Thao's residence and vehicle.

Dated: December 4, 2025

Respectfully submitted,

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