UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-2989-MDL-ALTONAGA/Torres

IN RE:

JANUARY 2021 SHORT SQUEEZE TRADING LITIGATION
_____/

JOINT ADDENDUM TO STIPULATED ORDER REGARDING ESI PROTOCOL AND FORMAT OF PRODUCTIONS

WHEREAS, the Court entered the Stipulated Order Regarding ESI Protocol and Format of Productions (the "ESI Protocol" or "Protocol") on July 13, 2021 [ECF No. 341];

WHEREAS, Plaintiffs and Defendants in the cases not governed by the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, et seq. (collectively, the "Parties"), agreed to meet and confer concerning certain items in the ESI Protocol and to report back to the Court within thirty (30) days of the entry of the ESI Protocol;

WHEREAS, the Parties have met and conferred and have reached mutual agreement as to those items;

NOW THEREFORE, the Parties, by and through their undersigned counsel, hereby stipulate and agree to this Addendum to the ESI Protocol (the "Addendum").

I. SCOPE

A. This Addendum is meant to be read in conjunction with the ESI Protocol and is incorporated fully as if stated therein. Unless otherwise indicated, nothing in this Addendum supersedes or otherwise modifies the terms of the ESI Protocol.

II. SCOPE OF DISCOVERY

This Part supersedes Part III of the ESI Protocol (Rule 26(a) ESI Disclosures).

In the interest of facilitating productive meet-and-confers regarding the scope of discovery, each Party shall disclose beginning at the commencement of discovery[1] the following information:

A. **Custodians.** A list of the custodians most likely to have discoverable ESI in their possession, custody, or control (hereinafter, "Custodians"), identified by name and title. The Parties agree to meet and confer on the list of Custodians. The Parties expressly reserve the right to request inclusion of additional Custodians as discovery progresses.

B. **Non-Custodial Data Sources.** A list of known non-custodial data sources (e.g., shared drives, servers, etc.), if any, likely to contain discoverable ESI, including, but not limited to, databases that contain "structured data," as described in Part VIII of the ESI Protocol, and any readily available user manuals, training manuals, or explanations of the type of data contained in such structured databases, to the extent those documents exist.

C. **Custodial Data Sources.** The custodial data sources (e.g., cell phones, notebook computers, laptops, tablets, etc. that are likely to contain discoverable ESI) that the Producing Party will search for each Custodian, with sufficient information for the Requesting Party to evaluate the reasonableness of each data source selection.

D. **Third-Party Data Sources.** Subject to applicable confidentiality obligations, a list of known third-party data sources, if any, used by a Party and likely to contain discoverable ESI and, for each such source, the extent to which a Party is (or is not) able to preserve information stored in third-party data source.

F. **Preservation of Phone Records & Cell Phones.** The Producing Party will take steps, consistent with the obligations under the Federal Rules of Civil Procedure, to preserve

[1] For the sake of this Addendum, the commencement of discovery is understood to occur at the earlier of the Court ordering the lifting of the discovery stay in its entirety as to all Defendants or after all Defendants in the Non-Federal Securities Actions have entered timely answers to the respective operative complaints.

potentially relevant phone records and cell phone data that is in the Producing Party's custody and control. The Parties agree to meet and confer regarding such steps. The Producing Party will disclose whether notification has been provided to the phone carrier(s) for potential individual custodians' work phone numbers (e.g., office phone and fax number(s)) and cell phone numbers used from January 1, 2020, to the present, and/or whether any available internally maintained phone record logs or phone bills have been preserved. The Producing Party will also disclose if they have preserved and/or collected data from any potential custodian's cell phones used from January 1, 2020 to the present.

G. **Inaccessible Data.** The Parties agree to preserve known inaccessible data sources likely to contain discoverable ESI, to the extent reasonably practicable, until they reach an agreement on whether these sources are unreasonably cumulative, duplicative, burdensome or expensive pursuant to Fed. R. Civ. P. 26(b)(2)(C)(i).

III. FORMAT OF PRODUCTIONS

A. **Production Materials that Cannot be Processed.** This Part supersedes Part V.I of the ESI Protocol (Exception Logs).

If a Producing Party discovers ESI that (1) possesses metadata or a parent/attachment file that hits on an agreed upon search term or (2) is otherwise known by the Producing Party to be responsive to a discovery request, but cannot be reviewed, produced and/or imaged because of technical issues, the Producing Party shall produce (1) a slip sheet stating the document could not be produced and (2) any available associated metadata. If the Receiving Party requests production of any file for which a slip sheet is produced, the Parties will meet and confer on a reasonable and cost-effective means for attempting to provide the requested file or an equivalent file.

B. **Additional Production Specifications.** This Part modifies Part V.K.8 of the ESI Protocol (Additional Production Specifications) to include the following.

All productions will include these additional specifications:

- **Time Zone.** ESI items shall be processed based on the Coordinated Universal Time ("UTC") time zone, unless otherwise unavailable, under which circumstance the Parties will meet and confer on a reasonable and cost-effective means for attempting to specify the time zone for the ESI. This provision shall apply to all relevant metadata fields in Exhibit 1 to the ESI Protocol.

IV. PARAMETERS FOR CUSTODIAL ESI COLLECTION

This Part supersedes Part IX of the ESI Protocol (Parameters for Custodial ESI Collection).

For each of a Producing Party's current or former employees identified as a Custodian, the Producing Party will, consistent with the Federal Rules of Civil Procedure, do the following:

A. **Email.** Collect all emails in the possession of a Custodian from the relevant time period.

B. **Cell Phone Data.** Collect data from current or previous cell phone devices likely to contain responsive information from the relevant time period, if any. The Producing Party will identify for each Custodian a list of devices identified for collection, if any.

Plaintiffs' Proposed Language: Phone Records

C. **Phone Records.** Producing Party will either obtain billing statements for all phone number used by Custodians or provide signed written authorizations for the release of such phone

records from the applicable phone carriers (including facilitating the receipt of such authorizations on behalf of their employees where applicable).

Defendants' Proposed Language: Phone Records

Defendants object to the inclusion of subpart C. in its entirety.

D. **Personal Computer-Based ESI.** Collect data from all personal computers or backup devices likely to contain responsive information from the relevant time period. The Producing Party will identify for each Custodian a list of devices identified for collection.

E. **Tablets.** Collect data from tablet computer likely to contain responsive information from the relevant time period. The Producing Party will identify for each Custodian a list of devices identified for collection.

Plaintiffs' Proposed Language: Contacts

F. **"Contacts."** Export each Custodian's contacts (e.g., Outlook, Slack or Microsoft Teams contacts; or cell-phone based contacts) to Excel (or other spreadsheet format agreed upon by the Parties) from the Custodian's email account and/or cell phone, including all Metadata fields. If a Party desires to redact certain personal information (e.g., phone numbers for a custodian's children), then the Parties will meet and confer regarding the categories of such information to be redacted and how such information will be redacted/excluded from the responsive spreadsheet.

Defendants' Proposed Language: Contacts

Defendants object to the inclusion of subpart F. in its entirety.

G. **Cloud-Based ESI.** Collect data from any cloud-based document storage, collaboration or meeting services (e.g., Dropbox, Google Docs, Google Hangouts, Microsoft Teams, Slack, WebEx, Zoom) likely to contain responsive information from the relevant time period. To the extent a custodian backed up a cell phone or tablet to a cloud-based storage system

(e.g., iCloud), the Producing Party shall collect such data if it believes it is likely to contain responsive and unique information not available from the cell phone or device itself.

H. **Administrative Assistants.** An agreement to collect documents for a particular Custodian shall include the collection of that Custodian's current and/or former administrative assistants, if the Producing Party reasonably determines that the current and/or former administrative assistant is likely to possess responsive and unique information from the relevant time period not available from the Custodian's files.

DONE AND ORDERED in Miami, Florida, on this __ day of August, 2021.

_____
CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

Dated: August 14, 2021

Respectfully Submitted,

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