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7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,
12 Plaintiff,

13 v.

14 WALTER LIEW, CHRISTINA LIEW, USA
PERFORMANCE TECHNOLOGY, INC.,
15 and ROBERT MAEGERLE,
16 Defendants.
17

Case No. CR 11-0573-JSW (NC)

**REPLY BRIEF IN SUPPORT OF
RENEWED MOTION FOR AN ORDER
REVOKING THE DETENTION ORDER
AND GRANTING PRETRIAL RELEASE
OF WALTER LIEW**

Date: December 21, 2012
Time: 11:00 a.m.
Place: Courtroom A, 15th Floor
Dept.: Hon. Magistrate Judge
Nathanael Cousins

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1 **I. INTRODUCTION**

2 Rather than address the gravamen of Mr. Liew’s opening brief—that he has been detained
 3 without bail for 17 months in what is essentially a civil “residual knowledge” trade secret case,
 4 when conditions to assure his appearance at trial could plainly be crafted—the Government’s
 5 Opposition engages in an unfair and misleading attack on Mr. Liew’s “honesty,” coupled with
 6 speculation as to the Liew family’s finances. Neither approach has anything to do with risk of
 7 flight (the only basis for Mr. Liew’s detention to date), nor does either argument persuasively
 8 establish that continued detention is the only way to assure Mr. Liew’s presence at trial. The
 9 Government’s further attempt to blame Mr. Liew for its lengthy delays in investigating and
 10 prosecuting this case is disingenuous, and underscores that his continued detention is a due
 11 process violation.

12 **II. ARGUMENT**

13 **A. The Government Does Not Meaningfully Contest That This Is Essentially A**
 14 **Residual Knowledge Civil Case Based On Old Technology In A Crowded**
Field.

15 Before addressing the two arguments that occupy most of the Government’s Opposition, it
 16 is worth noting what the Opposition ignores. The Government fails to respond to Mr. Liew’s
 17 argument that he has powerful defenses on the merits of this case, and that the weaknesses in the
 18 Government’s allegations of trade secret theft weigh in favor of granting his release. Mr. Liew’s
 19 opening brief pointed out, *inter alia*, that:

20 • While the indictment alleges that the *entirety* of the chloride route process for
 21 manufacturing titanium dioxide is a trade secret, the details of that process have been disclosed in
 22 thousands of public references, including patents issued to DuPont that expired decades ago.

23 Opening Brief at 4:25-5:8;

24 • While the materials seized from Mr. Liew and his business total millions of pages
 25 of work, the Government has identified only a handful of confidential DuPont documents that are
 26 alleged to have been in Mr. Liew’s possession. *Id.* at 3:6-8;

27 • Based on the (allegedly) highly confidential materials produced in discovery, the
 28 Government’s accusations of trade secret misappropriation appear to have been spoon fed to them

1 by biased DuPont engineers ignorant of trade secret law. *Id.* at 3:9-21;

2 • Based on the DuPont engineers' commentary, the core of the Government's
3 "trade secret" case appears to be that consultants hired by Mr. Liew's company (some of whom
4 were former DuPont engineers) drew sketches and did other work that contains features that
5 resemble aspects of certain DuPont titanium dioxide plants, several of which long ago ceased
6 operations. *Id.* at 7:1-9; and

7 • Any similarities between the work of Mr. Liew's consultants and features found in
8 DuPont's old plants are non-actionable because based on previous public disclosures,
9 independent development, proper reverse engineering, common knowledge in the field, Mr.
10 Maegerle's or other consultants' residual knowledge, or are precluded by other defenses such as
11 DuPont's failure to maintain confidentiality. *Id.* at 7:5-9.

12 It is troubling that in response to serious criticism of the merits of its trade secret case in
13 the opening brief, the Government's Opposition says virtually nothing. Instead, it goes to the
14 opposite extreme, taking Mr. Liew's guilt for granted (without citing any evidence and in
15 contravention of the presumption of innocence), and even predicting a sentence in excess of the
16 statutory maximum for economic espionage.¹ The weakness of the evidence against Mr. Liew is
17 "an important factor favoring release." *United States v. Chen*, 820 F. Supp. 1205, 1207 (N.D.
18 Cal. 1992), yet the Government's Opposition entirely fails to address it.

19 **B. The Government Cannot Blame Mr. Liew For Its Own Delays In Bringing**
20 **This Case To Trial.**

21 Equally evasive is the Government's response to the contention in Mr. Liew's opening
22 brief that the length of time it has taken to prosecute this case to date, and the delays ahead in
23 moving this case to trial, raise significant due process concerns. The Government's response—
24 that Mr. Liew "has only himself to blame" for what likely will be *at least a two-and-a-half-year*
25 *detention*, Opposition at 10:25—is, at best, based on faulty memory, and at worst, a disingenuous
26 re-writing of history.

27
28 ¹ 18 U.S.C. §1831(a)(5).

1 Mr. Liew was arrested and detained in July 2011 based on limited charges of obstruction
2 of justice arising out of circumstances around his civil lawsuit and the search of his home. *It took*
3 *the Government over six months to bring its trade secret charges on February 7, 2012.* Plainly
4 Mr. Liew had nothing to do with this period of delay. When Mr. Liew hired Kecker & Van Nest in
5 April 2012, the undersigned met promptly with the prosecution on May 1, 2012 to discuss
6 obtaining discovery and filing a renewed motion for bail. The Government made a variety of
7 commitments but then dragged its feet in fulfilling them, responding to defense requests for
8 discovery or follow-up information with silence, further unkept promises, and even mockery.
9 Declaration of Simona Agnolucci (“Agnolucci Decl.”) at ¶¶6, 7, 10, 12-18 & Exhs. E, K-O, Q, T,
10 V. The suggestion that Mr. Liew has somehow acquiesced to this state of affairs is untrue. So,
11 too, is the suggestion that Mr. Liew’s objections to the protective order were unfounded or a
12 significant source of delay. Opposition at 10:6-10. Mr. Liew cannot be faulted for objecting to
13 the over-reaching protective order proposed by DuPont and eventually rejected by the Court.
14 Further, although the Government has been saying since at least April 2012 that it planned to
15 bring a superseding indictment, it still has not done so and does not plan to seek such an
16 indictment until after the first of the year ... *another approximately 10 months of delay in*
17 *bringing this case to trial that cannot fairly be attributed to Mr. Liew.* Finally, although service
18 of the indictment on the Pangang defendants was quashed on July 23, 2012 (Dkt. 176), it has
19 taken the Government until December 6, 2012 (Dkt. 210) even to claim that it has effected
20 service, with more motions practice (and possibly an appeal) to follow. None of this is remotely
21 Mr. Liew’s fault.

22 Moreover, trial remains a distant prospect. After the filing of Mr. Liew’s bail motion, the
23 parties appeared for a status conference before Judge White, who advised that he intended to set a
24 motions schedule and other pretrial deadlines at the next status conference on March 21, 2013.
25 Dkt. 215. The feasibility of that plan depends, of course, on whether the Government will have
26 sought and returned its planned Second Superseding Indictment, as well as completed discovery
27 on all charges, by at least mid-February so that defendants have sufficient time to review the
28 newly-produced materials and assess what motions need to be brought. Moreover, if the

1 Government continues to insist that all defendants be tried together, a pretrial schedule cannot
2 realistically be set until it is finally determined whether the Pangang defendants have been
3 properly served and are subject to the Court’s jurisdiction...posing novel questions that may
4 require appellate review. Even in the best case scenario, this case is unlikely to go to trial earlier
5 than late fall or early winter of 2013. By then, Mr. Liew will have been incarcerated for almost
6 two and a half years—a length of time that “points strongly to a denial of due process.” *United*
7 *States v. Gonzales Claudio*, 806 F.2d 334, 341 (2d Cir. 1986); *see also United States v. Ailemen*,
8 165 F.R.D. 571, 577 (N.D. Cal. 1996) (“It is clear that long pretrial detentions, at least in some
9 circumstances, can violate the Due Process Clause of the Fifth Amendment of the Constitution of
10 the United States.”).

11 The primary cause of the delays in getting this case to trial have been the Government’s
12 protracted investigation and its *seriatim* approach to charging. *See United States v. Gelfuso*, 838
13 F.2d 358, 359 (9th Cir. 1988) (in determining whether excessive detention rises to the level of a
14 due process violation, courts must “consider the length of confinement in conjunction with the
15 extent to which the prosecution bears responsibility for the delay that has ensued”); *see also*
16 *Ailemen*, 165 F.R.D. at 591. The Government’s attempt to pin the delay on Mr. Liew is so
17 patently untrue as to call their good faith into question in even making this argument. *See*
18 Agnolucci Decl. at ¶¶6, 7, 10, 12-18 & Exhs. E, K-O, Q, T, V. Under these circumstances,
19 allowing Mr. Liew to remain incarcerated any longer rises to the level of a Constitutional
20 violation.

21 **C. The Attacks On Mr. Liew’s “Honesty” Are Unpersuasive And Irrelevant To**
22 **Whether There Is A Serious Risk That He Will Flee.**

23 Unable or unwilling to address the reality that Mr. Liew—a United States citizen with no
24 criminal record facing white collar charges to which he has strong defenses—has been
25 incarcerated for a lengthy period of time with no end in sight, the Government resorts to name-
26 calling, asserting (with remarkably thin evidence) that Mr. Liew is habitually dishonest.
27 Opposition at 2:1. Examination of these supposed “lies” reveals no basis for denying bail to
28 Mr. Liew.

1 One supposed “lie” is that Mr. Liew checked a column on a January 2009 bankruptcy
2 petition stating that the bankrupt entity owned no “patents, copyrights, and other intellectual
3 property.” Rometo Decl. Exh. 1 at 8. In the Government’s skewed logic, that representation is
4 “completely at odds” with the position taken in the current bail motion “that the trade secret
5 violations are defensible based on [Mr. Liew’s] own independent design work.” Opposition at
6 4:25-26. But that logic is utterly flawed. For starters, the Government misstates Mr. Liew’s
7 position. His defenses certainly include independent development, but also include many others,
8 such as prior public disclosure (i.e., that DuPont’s supposed secrets are not secrets at all but have
9 been published or are otherwise common knowledge in the field); that certain design features
10 were part of Mr. Maegerle’s or other consultants’ residual knowledge that they were entitled to
11 use in practicing their professions in competition with DuPont; and that DuPont’s failure to
12 maintain a sufficient degree of confidentiality in practice precludes trade secret protection.
13 Moreover, “independent development” merely means that Mr. Liew and his employees worked
14 hard to create their own product rather than misappropriating DuPont’s as the Government
15 contends. It does not necessarily mean that the work generated patents or copyrights or any other
16 intellectual property of value that would require disclosure in bankruptcy proceedings. In sum,
17 the two statements—the January 2009 checkmark suggesting that a particular entity owned no
18 patents, copyrights or other intellectual property at that time, and the more recent statement of
19 Mr. Liew as to his defenses—are entirely consistent.

20 Another of the Government’s alleged “lies” from the 2009 bankruptcy—Mr. Liew’s
21 statements in the bankruptcy hearing about what work his business entity Performance Group
22 performed—falls equally flat. Contrary to the Government’s innuendo, what Mr. Liew said is
23 consistent with his positions in this case. Mr. Liew explained to the Court “we offer consulting.
24 We offer engineering support services.” Rometo Decl. Exh. 3 at 3:19-20. He said Performance
25 Group did not do “much” design work, explaining that his employees instead *collaborated with*
26 *outside consultants*. *Id.* at 4:4-14. When asked, for the purposes of assessing the value of office
27 equipment such as computers, how many employees he had, Mr. Liew said he had about five
28 people working *in the office*. *Id.* at 5:5-6. Moreover, these statements were made in February

1 2009, at a time when Performance Group had been working on the 30,000 ton per year titanium
2 dioxide project in Jinzhou, a project that is not charged in the indictment and that involved an
3 *already-designed* plant. On that project, Mr. Liew worked with a small team of in-house
4 engineers aided by outside consultants to improve upon Jinzhou's existing engineering design.
5 On the Pangang project, in contrast, Mr. Liew had a larger team employed by a different entity
6 (USA Performance Technology, Inc., the defendant in this case), and that team did more design
7 work on a larger project to be built from scratch, also with the assistance of outside consultants.
8 The Government's attempts to characterize Mr. Liew's statements in bankruptcy court as
9 inconsistent with those in the bail motion ignore the fact that the two discuss different projects
10 performed at different times by different companies.

11 Nor has the Government shown any falsity in Mr. Liew's statement in January 2012 that
12 he did not have "regular contact" with his father-in-law. Opposition at 4:9-10. The fact that Mr.
13 Liew allegedly was a signatory on a bank account in the name of his father-in-law, and that he
14 allegedly made transfers to that account in 2008—*over three years earlier*—hardly demonstrates
15 that Mr. Liew and his father-in-law had "regular contact" so as to render his statement false.

16 The remaining allegations that Mr. Liew "lied" are based on either (1) unproven
17 obstruction of justice charges of which he currently is presumed innocent (Opposition at 3-4); (2)
18 alleged financial misrepresentations to the bankruptcy court that have not been charged
19 (Opposition at 5); or (3) statements taken out of context. The unproven financial allegations rest
20 on a very thin reed: they are supported by either (1) a "summary of transfers" prepared by the
21 Government with no evidentiary support or (2) no citation to evidence whatsoever. Those
22 charges (if and when brought) will be addressed at trial but should not be the basis for denying
23 bail. *Cf. United States v. Motamedi*, 767 F.2d 1403, 1408 (9th Cir. 1985) (magistrate's findings
24 concerning Motamedi's foreign accounts were "drawn primarily from allegations contained in the
25 indictment" and therefore an insufficient basis for detention).

26 The Government's characterization of Bernie Madoff as an exemplar of truthful conduct
27 who should be treated differently than Mr. Liew is preposterous. Opposition at 14-15. One week
28 after the court enjoined Madoff from transferring his assets, he was caught mailing packages to

1 various relatives, which the Government contended contained more than \$1 million in Madoff's
2 personal property. *United States v. Madoff*, 586 F. Supp. 2d 240, 245 (S.D.N.Y. 2009). The
3 Government argued that Madoff should not get bail because he attempted to conceal his assets,
4 asserting that the setting of bail conditions is "based, fundamentally, on the trustworthiness of the
5 defendant." *Id.* at 255. The Court rejected this argument, noting that "implicit in the bail
6 condition analysis is the assumption that the defendant *cannot be trusted on his own.*" *Id.*
7 (emphasis added). Accordingly, even if there were support for the Government's threadbare
8 allegations that Mr. Liew is "dishonest," the *Madoff* decision makes clear that "dishonest"
9 conduct does not establish actual flight risk when, as here, the defendant has proposed a host of
10 measures to assure his appearance at trial.

11 **D. The Government's Conclusory Assertion that Trial Preparation will be**
12 **"Simple" Ignores the Nature of this Case.**

13 Mr. Liew's opening brief explains at length the many difficulties of preparing for trial
14 with an incarcerated defendant in a case involving voluminous discovery in EnCase form,
15 Chinese documents, and complex technical issues. Opening Brief at 10-13. The Government's
16 conclusory response—that "it should be a fairly simple matter [for Mr. Liew] to point his counsel
17 to the places in his business records that show independent development"—ignores each specific
18 hurdle identified in Mr. Liew's opening brief, including:

- 19 • The fact that counsel must guess which of the 5 terabytes of documents (many in
20 Chinese) to bring to the Dublin detention center for each visit;
- 21 • The attorney time and administrative delays required for each visit to Dublin;
- 22 • The impossible financial burdens of "processing" the staggering discovery
23 produced into easily readable form;
- 24 • The fact that Mr. Liew cannot retain copies of the C-1 memos prepared by DuPont
25 that lay out the allegations against him;
- 26 • The fact that Mr. Liew can only receive other materials through a slow and
27 unreliable prison mail system; and
- 28 • The fact that Mr. Liew has no computer or Internet access in Dublin.

1 To characterize the process of defending this case as “simple” is laughable. The fact that a
2 significant portion of the documents produced by the Government were seized from Mr. Liew
3 and/or the USAPTI offices is precisely why it is critical for Mr. Liew to be an active participant in
4 the defense team. He is uniquely suited to filter through the terabytes of discovery and locate the
5 significant items, and there is no meaningful way to accomplish this task in any reasonable
6 amount of time while he remains incarcerated.

7 **E. The Conditions Proposed by Mr. Liew “Reasonably Assure” that he will not**
8 **Flee.**

9 As explained in Mr. Liew’s bail motion, the burden is on the Government to demonstrate
10 that no condition or combination of conditions will *reasonably assure* Mr. Liew’s appearance at
11 future court dates. 18 U.S.C. § 3142. The Bail Reform Act does not require that the risk of flight
12 be zero. *Madoff*, 586 F. Supp. 2d at 249. Mr. Liew proposes a set of conditions that more than
13 adequately mitigate any serious risk of flight, including home detention (except for trial
14 preparation at the offices of Kecker & Van Nest) under the constant watch of a private security
15 guard chosen by the Government, electronic monitoring, and the pledging of substantial security
16 in a form satisfactory to the Court (including the sale of Christina Liew’s Singapore home and/or
17 the posting of an amount of up to \$2 million in cash).

18 The Government does not explain how the proposed conditions are insufficient to mitigate
19 any serious risk that Mr. Liew will flee. Instead, its Opposition launches unpersuasive attacks on
20 Mr. Liew’s credibility based on statements made years ago in a bankruptcy proceeding, and relies
21 on innuendo and speculation regarding Mr. Liew’s finances, to demonstrate that there is a “red
22 flag about his requested release.” Opposition at 6:16. As discussed in more detail below, when
23 the Court looks at the actual facts behind the Government’s rhetoric, it becomes clear that the
24 rhetoric is largely unsubstantiated. Most importantly, the Government’s attempts at character
25 assassination say nothing about Mr. Liew’s *actual risk of flight*. They simply reveal how far the
26 Government is willing to stretch, and the extent to which it will ignore the applicable legal
27 standard, in order to detain Mr. Liew.

1 **1. The Assertions that Mr. Liew Transferred Money Overseas Prove**
2 **Nothing about his Actual Ability to Flee under the Proposed**
3 **Conditions.**

4 The Government states that Mr. Liew’s “finances remain a mystery,” conceding that it
5 does not know who currently controls money that Mr. Liew allegedly transferred overseas.
6 Opposition at 3:6. The superseding indictment alleging financial crimes—originally promised for
7 last September, and now delayed until sometime in the New Year—has been a long time coming.
8 Apparently unable to put its financial case together, the Government asks Mr. Liew to do its work
9 for it, arguing that he is not entitled to bail unless and until he makes full disclosure of all of his
10 and his extended family’s finances to the Government. Even assuming that Mr. Liew possesses
11 this information, it would be foolish for Mr. Liew to take positions regarding his finances and put
12 a “full confessional” on the table prior to learning the specifics of the upcoming financial charges
13 against him. No lawyer would advise his client to do so under these circumstances.

14 Nor does the law require such a confessional. In *United States v. Khashoggi*, the
15 defendant was “an enormously wealthy man” with “the means to procure staggering amounts of
16 cash in fewer than 24 hours.” 717 F. Supp. 1048, 1050 (S.D.N.Y. 1989). The court only required
17 “adequate information” about the extent of his resources to render a “meaningful
18 recommendation” regarding bail. *Id.* Here, the Government has provided that information: in its
19 view, Mr. Liew allegedly transferred \$22,537,452 to six companies in Singapore, and the
20 Government has traced roughly \$3.8 million of it to Mr. Liew’s family members. Opposition at
21 6; Rometo Decl. at Exhibit 8. Even if the Court were to accept the Government’s speculative
22 characterization of this money—that Mr. Liew still somehow controls all of it, even though there
23 has been no showing that any of it even remains in the possession of those Singapore
24 companies—the proffered security of approximately \$2 million dollars is more than adequate to
25 assure his appearance at trial. *See id.* at 1052 (ordering Mr. Khashoggi released upon posting of
26 \$10 million bond, a tiny fraction of his net worth at the time);
27 http://en.wikipedia.org/wiki/Adnan_Khashoggi.

28 In any event, the hypothesis that Mr. Liew has stashed money abroad for his escape is
nothing more than a bald assertion. The Government provides no back-up for the charts

1 purporting to describe various transfers of money allegedly effectuated by Mr. Liew—not even a
 2 description of how they were made or by whom.² As the Ninth Circuit explained in *Motamedi*—
 3 a case the Government does not even attempt to distinguish—speculation that Mr. Liew is guilty
 4 of the forthcoming financial charges cannot serve as the basis for detention. Evidence that the
 5 defendant is guilty “may be considered *only in terms of the likelihood that the person will fail to*
 6 *appear* or will pose a danger to any person or to the community. Otherwise, if the court
 7 impermissibly makes a preliminary determination of guilt, the refusal to grant release could
 8 become in substance a matter of punishment.” *United States v. Motamedi*, 767 F.2d 1403, 1408
 9 (9th Cir. 1985) (emphasis added).

10 Here, the Government’s unproven financial assertions have no bearing on the likelihood
 11 that Mr. Liew *actually will flee*. The Government expresses “concern about the ultimate
 12 disposition and control of the funds,” stating that it does not know who currently controls the
 13 money Mr. Liew allegedly sent abroad. Opposition at 3:5-7. In other words, the Government
 14 does not know whether Mr. Liew could even access the funds and use them for his escape. And,
 15 even if Mr. Liew could access the funds, the Government does not explain how any amount of
 16 money would enable him to flee the country undetected with no passport, while wearing an ankle
 17 bracelet, with a family in tow, and with a private security guard camped outside his house 24
 18 hours a day. As in *Madoff*, “the conditions imposed for release are unique in their own right” and
 19 are “reasonably calculated to assure [Mr. Liew’s] appearance when required.” *Madoff*, 586 F.
 20 Supp. 2d at 249.

21 **2. Mr. Liew Offers to Post Appropriate Security that will “Reasonably**
 22 **Assure” his Appearance at Trial.**

23 At Mr. Liew’s prior bail hearing, the Court expressed concern about the amount of
 24 security pledged.³ Mr. Liew has responded in this renewed motion by offering to pledge a
 25 Singapore house owned by Christina Liew, or by selling or borrowing against the home and

26 ² The accompanying declaration of Special Agent Rometo simply states that “the attached
 27 exhibits were collected by the FBI during its investigation and are maintained in evidence by the
 28 FBI.” Rometo Decl. at ¶3.

³ Order (Dkt. 74) at 4:3-8.

1 posting up to \$2 million in cash, which represents what is believed to be all (or a substantial
 2 portion) of the equity in the home. The Government argues that the Court cannot accept Mr.
 3 Liew’s offer because “the evidence strongly suggests” that the Singapore home was paid for with
 4 the proceeds of trade secret theft. That argument fails for several reasons.

5 *First*, the relevant question under the statute is whether the posting of the property for bail
 6 “because of its source, will not reasonably assure the appearance of the person as required.”⁴
 7 That is assuredly not the case here. For one, even if one assumes for the purposes of this motion
 8 that the Government’s hypothesis is correct—that the Singapore house was purchased using
 9 proceeds derived in part from the Pangang titanium dioxide work—that theory *supports* Mr.
 10 Liew’s incentive to appear and protect an asset that he believes he earned based on years of
 11 legitimate engineering work. This is the very opposite of the paradigmatic § 3142(g)(4) case, in
 12 which an accused drug trafficker typically posts a bond secured by cash put up by criminal
 13 associates. In passing this section of the Bail Reform Act, Congress noted that legislation was
 14 needed for these situations, in which an individual “engaged in highly lucrative criminal activities
 15 such as drug trafficking, who [is] able to make extraordinarily high money bonds” posts bail and
 16 then flees the country. S. Rep. No. 98-225, at 23 (1983). “Among such defendants, forfeiture of
 17 bond is simply a cost of doing business[.]” *Id.* at 23-24. That paradigm bears little resemblance
 18 to the situation here, in which a defendant with no criminal record faces white collar charges
 19 armed with a myriad of defenses, and has offered to put up a home owned by his family.

20 *Second*, whether or not posting the Singapore home or cash derived from it, standing
 21 alone, would be sufficient to assure Mr. Liew’s presence at trial—which it plainly would be—it is

22 ⁴ The statute provides, in part:

23 In considering the conditions of release . . . the judicial officer may upon his own
 24 motion, or shall upon the motion of the Government, conduct an inquiry into the
 25 source of the property to be designated for potential forfeiture or offered as
 26 collateral to secure a bond, and shall decline to accept the designation, or the use
 as collateral, of property that, because of its source, will not reasonably assure the
 appearance of the person as required.

27 18 U.S.C. § 3142(g)(4); *see also* 18 U.S.C. § 3142(f) (providing for a “hearing to determine
 28 whether any condition or combination of conditions . . . will reasonably assure the appearance” of
 the defendant).

1 more than adequate when coupled with the other proposed conditions of release proposed here,
2 including electronic monitoring and a private security guard.

3 **III. CONCLUSION**

4 For the foregoing reasons, the Court should GRANT Mr. Liew's motion.

5 Dated: December 19, 2012

KEKER & VAN NEST LLP

7 By: /s/ Stuart L. Gasner

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