U.S. Department of Justice

United States Attorney
Eastern District of New York

NS:KDE/JL
F.#2018R00550

271 Cadman Plaza East
Brooklyn, New York 11201

April 20, 2021

By ECF and Email

The Honorable Robert M. Levy
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Cooper, et al.
Criminal Docket No. 21-208 (LDH)[1]

Dear Judge Levy:

The government respectfully submits this letter requesting that the Court enter a permanent order of detention against the defendants Val Cooper, also known as "Val Konon" and "Valeriy Kononenko," and Garri Smith, also known as "Igor Berk" and "Igor Berkovich." In addition, unless he presents a significant bail package that includes electronic monitoring, the government also requests that the Court detain Alex Levin. As detailed below and in the indictment unsealed today, the defendants were members of an international organization that used sophisticated means to steal over $30 million of property from safe deposit boxes at banks abroad, primarily in Eastern Europe. All of the defendants have strong ties to multiple foreign countries, including the Ukraine and Belarus, from where they can never be extradited, and the organization has committed their crimes across the globe by, among other things, using fraudulent passports. Finally, when they became aware of foreign governments' investigations into their activities, Cooper and Smith changed their names in an attempt to avoid capture.

[1] This case was randomly assigned to the Honorable William F. Kuntz, II. On April 15, 2021, the government submitted a letter ex parte and under seal asking that the case be reassigned to the Honorable LaShann DeArcy Hall, which motion was granted. This letter constitutes the notice contemplated by Local Rule 50.3.2(c)(2).

I. The Charged Offenses

A. Background

These charges stem from a long-term investigation conducted by the U.S. Department of Homeland Security, Homeland Security Investigations, the Federal Bureau of Investigation, and the New York City Police Department, with assistance from many foreign countries. For years, the defendants have been part of a sophisticated network that has used intricate means to conspire to steal millions of dollars' worth of property from safe deposit boxes at banks located in, among other places, the Ukraine, Latvia, Russia, North Macedonia, Uzbekistan, Azerbaijan and Moldova.

The network, led by Cooper, typically operated as follows. A co-conspirator, including at times Smith, would identify a bank that did not appear to have cameras inside the room containing its safe deposit boxes. Once a bank had been selected, the co-conspirator would rent a safe deposit box at the bank, sometimes using a fraudulent passport. After gaining access to the safe deposit box room, the individual who had opened the account and/or another co-conspirator returned and, using sophisticated camera equipment (often a borescope typically used in medical procedures) would take photographs of the inside of safe deposit box locks. The images were later provided to a keymaker, who manufactured duplicate keys, which were then given back to the co-conspirator(s) with access to the safe deposit box room for them to go back and test the keys, inspecting the other boxes' contents. The individual(s) later returned to the bank's safe deposit box rooms under the guise of attending to their own affairs. Once inside the room alone, however, they opened others' boxes, filled their bags with stolen property – including jewelry, money, gold bars and other materials – and walked out the front door of the bank. After the theft was completed, the conspirators often left the country shortly thereafter.

For their role in the thefts, Cooper, Smith and Levin, all residents of the Eastern District of New York and U.S. citizens who were born in either the Ukraine (Cooper and Smith) or Belarus (Levin), have been charged in the indictment with money laundering conspiracy, in violation of 18 U.S.C. § 1956(h), and conspiracy to violate the Travel Act, in violation of 18 U.S.C. §§ 1952(a) and 371. The three defendants, together with others, often used U.S.-based bank accounts to promote the various bank heists. They also used their accounts to transfer and launder the proceeds of their crimes, including by, among other things, receiving money sent from overseas money brokers.

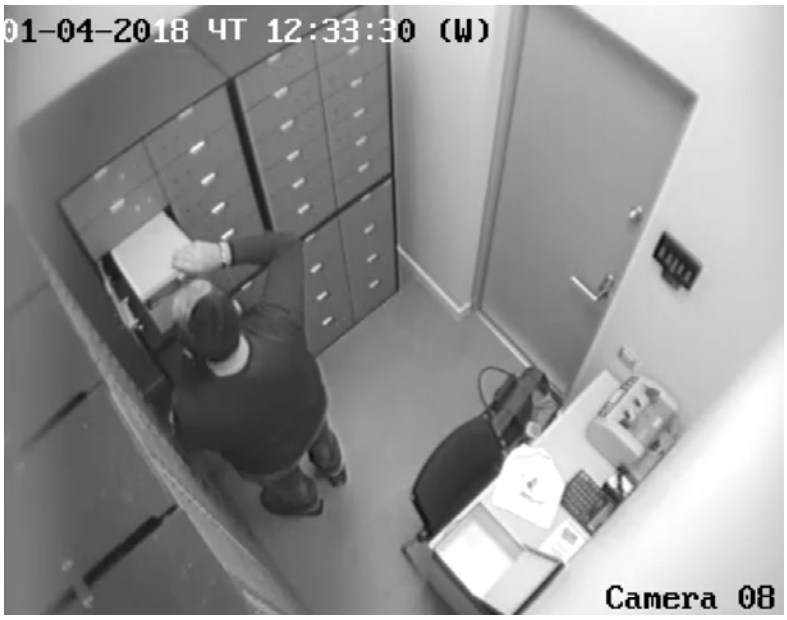
B. The Evidence

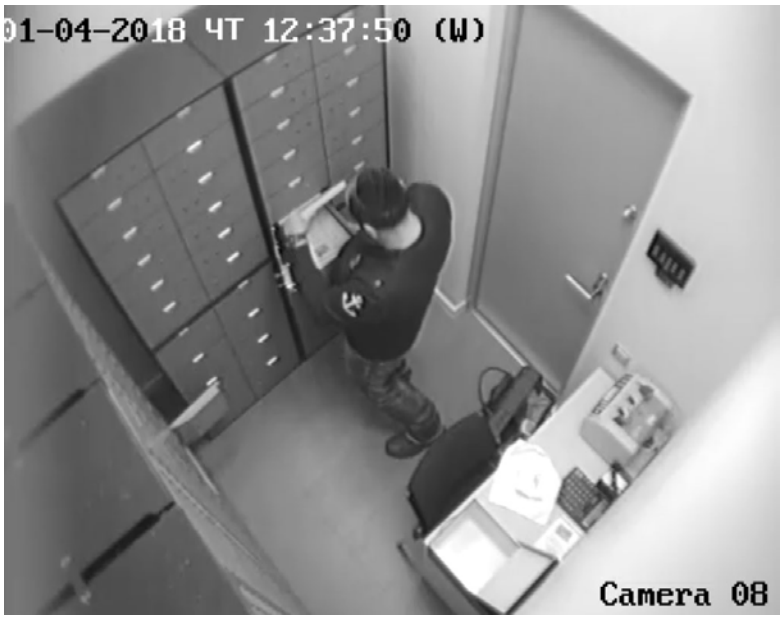
As set forth above, the defendants were members of an organization that committed at least two dozen heists in over seven countries with over $30 million in losses. Some of the evidence regarding these crimes is set forth below:

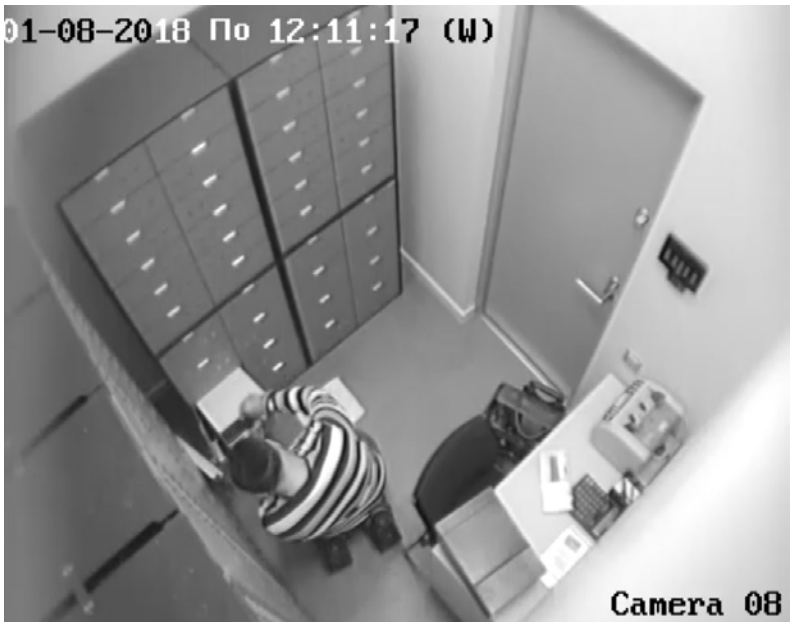
1. The January 2018 Latvia Heist

On January 15, 2018, Smith and another co-conspirator, at Cooper's direction, stole approximately $2 million worth of property from Privat Bank in Riga, Latvia. To commit the crime, Smith, using his former name, Igor Berk, opened a safe deposit box at the bank. Although the organization sought banks with no surveillance cameras, unbeknown to them, Privat Bank had installed a hidden camera in the safe deposit box room. Thereafter, on December 19, 2017, a co-conspirator ("CC-1," whose face is redacted below), entered the safe deposit box room and used a borescope to photograph the inside of multiple boxes' locks:

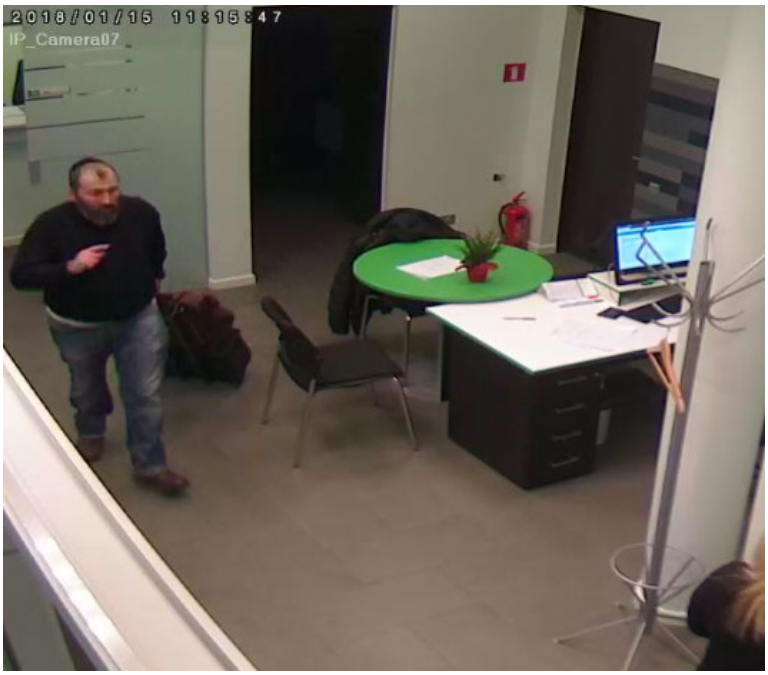
With the images, a co-conspirator created the duplicate keys and gave them to Smith, so he could return and inspect the boxes' contents, which he did on January 4 and January 8, 2018:

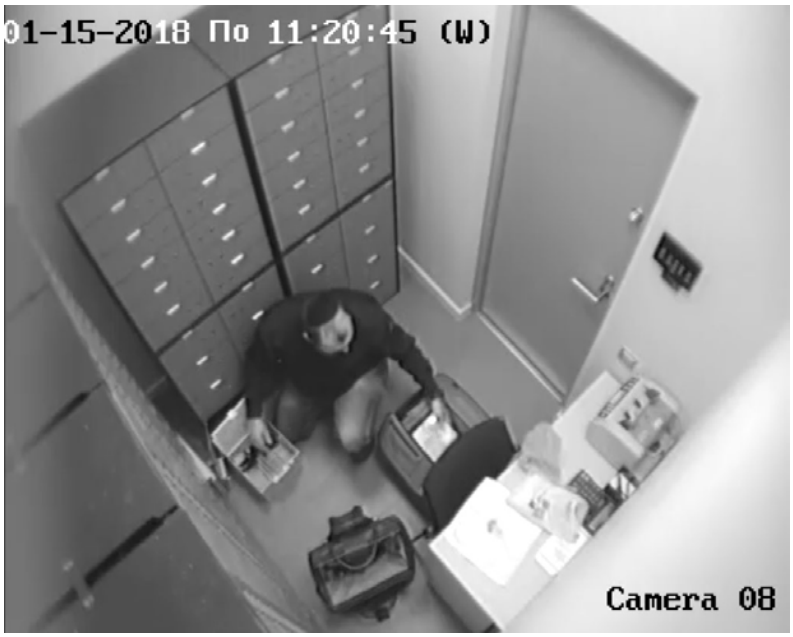

01-04-2018 ЧТ 12:33:30 (W)
Camera 08

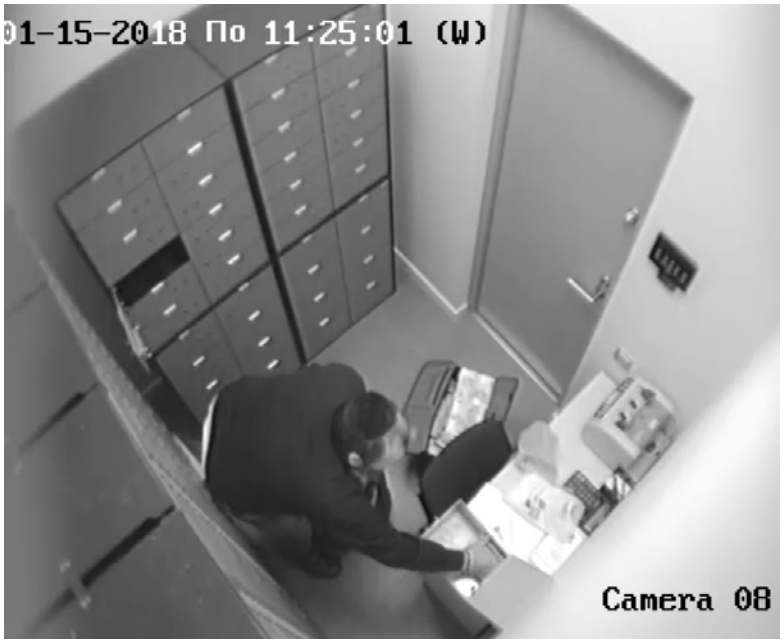

01-04-2018 ЧТ 12:37:50 (W)
Camera 08



On January 15, 2018, Smith and another co-conspirator ("CC-2") returned to the bank with the duplicate keys and executed the theft. Specifically, at approximately 11:15 a.m., Smith arrived at the bank, entered the safe deposit box room and emptied multiple boxes into his bags:







Immediately thereafter, CC-2 (whose face is also redacted below) entered the safe deposit box room and stole more merchandise from other boxes:

As captured on surveillance video, shortly after the heist, Cooper met with co-conspirators at a nearby hotel, where they divided the stolen property:

Various financial records show the use of U.S.-bank accounts to promote and facilitate this heist. For instance, a credit card issued in the United States in the name of Cooper's wife (the "Cooper Credit Card") purchased airline tickets for Smith to fly from John F. Kennedy International Airport in Queens, New York ("JFK") to Riga, Latvia on January 1, 2018, after which Smith inspected the safe deposit boxes using duplicate keys, as set forth above. These flights, among many others used by members of the organization, were purchased through a travel agency operated by Levin's wife. The Cooper Credit Card was also used to book a hotel room in Riga for Smith's stay. Days before the theft, the Cooper Credit Card was also used to book a flight for Cooper to fly on January 12, 2018, from JFK to Riga, Latvia. Further, shortly after the heist, between February 8, 2018 and March 9, 2018, an overseas shell company wired nearly $350,000 to an account held by a co-conspirator in the Eastern District of New York.[2] Between March 15, 2018 and April 30, 2018, the co-conspirator issued checks totaling approximately $345,000 to Cooper's wife.

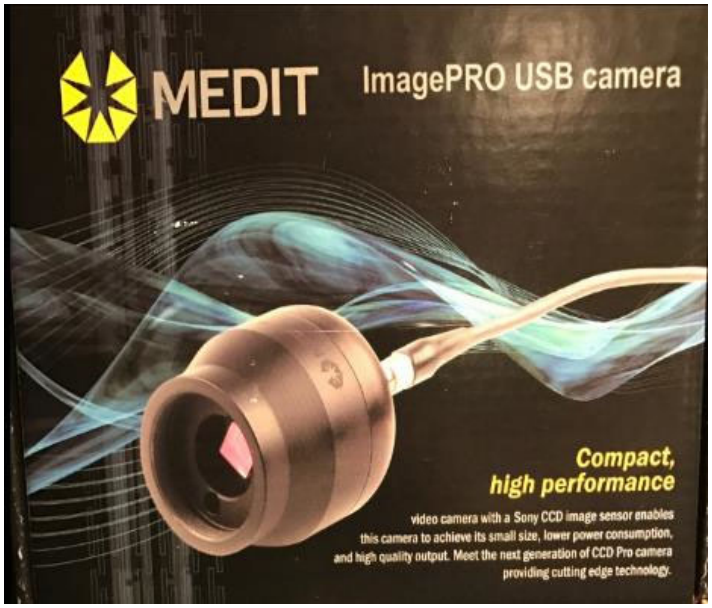
2. Evidence Relating to Other Heists

In addition to the evidence surrounding the Latvian heist, a multitude of other evidence reveals the defendants' involvement in the schemes. For instance, records for a company that manufactures customized borescopes show that in October 2015, Levin purchased sophisticated camera equipment that was paid for by one of Cooper's companies. Similarly, in April 2016, Levin purchased similar equipment from a medical supply company, which was shipped from Ohio to Levin in Brooklyn, New York.

[2] This same shell company also sent a wire transfer from overseas to an account held by Levin in the amount of $9,000 on February 26, 2018.

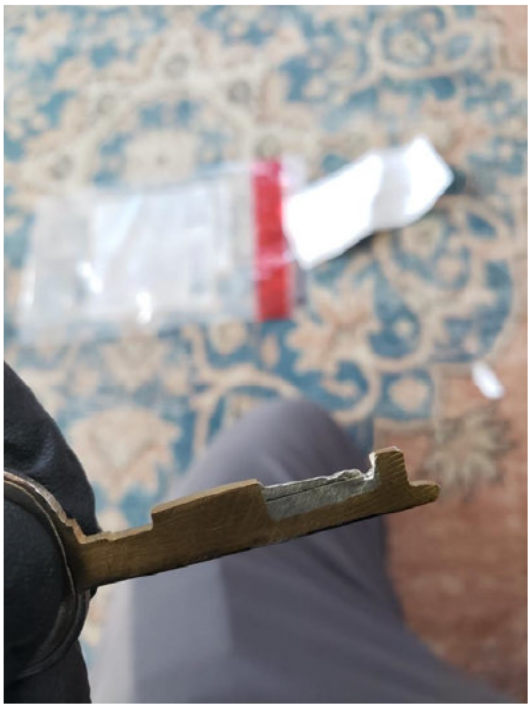
A search of cellular telephones has also revealed strong evidence of these offenses. For instance, on July 17, 2017, Cooper sent an electronic message to Levin containing the following photograph of a safe deposit box lock:

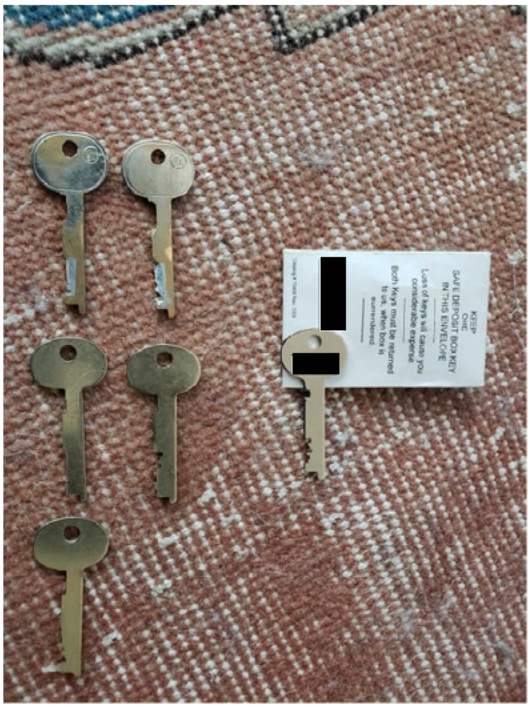
As another example, on July 19, 2017, Cooper sent Levin another message containing the following photograph of a small camera that could be used to examine the inside of locks:



3. Search Warrants

Earlier today, agents executed a search warrant at, among other places, Cooper's residence. There, agents discovered, among other things, cash, jewelry and high-end handbags that constitute proceeds of the crimes. Also present was sensitive law enforcement documents created during the course of the investigation. Agents also discovered, among other things, multiple safe deposit box keys with no numbering on them, including one that appears to have been filed, as depicted in the photographs below:





C. Other Evidence Relevant to Risk of Flight

In addition to the evidence of the charged offenses, the government has uncovered other significant proof of the incredibly high flight risk posed by the defendants, some of which is detailed below.

1. Attempts to Interfere with Other Investigations

After the January 2018 theft in Riga, Latvia, CC-2 was arrested by Latvian law enforcement authorities. Thereafter, Cooper and another co-conspirator sought to bribe a Latvian police officer to obtain information about that investigation. Specifically, with Cooper's knowledge, the co-conspirator contacted a Latvian police officer, who was acting in an undercover capacity and recorded the conversation. During the conversation, the Latvian police officer indicated a willingness to accept the purported bribe, but the co-conspirator believed the amount was too high and, with Cooper's approval, he abandoned the plan.

Cooper has also indicated he has high-level contacts within the Ukrainian government, which could serve both to protect him from prosecution there and could facilitate his flight into that country. Understanding that there is an investigation in that country into the various heists committed there, during lawfully recorded conversations, Cooper (1) stated that he had a high-level source within the Ukrainian government; (2) understood that officials in that country wanted a bribe in exchange for shielding him from liability; and (3) directed a co-conspirator to lie to the Ukrainian investigators.

Specifically, on October 22, 2019, Cooper was recorded telling another individual (the "Individual") that he had a source who indicated that Ukrainian officials wanted to lure individuals wanted for a crime to Ukraine, even under false pretenses, to try to extract a bribe in exchange for assistance with the pending case. Cooper stated that his source was a high-level, non-law enforcement official within the Ukrainian government. Further, on November 15, 2019, Cooper told the Individual that Ukrainian authorities were looking for a bribe in exchange for leniency with that investigation. Cooper also advised the Individual to hire an attorney to indicate his willingness to cooperate in the Ukrainian investigation but to lie, including by stating that the Individual's relationship with Cooper was only "casual" and that the Individual only sold jewelry (rather than helped commit multiple of the heists, which the Individual did). During this meeting, Cooper also stated that he and the Individual should fight the investigation in Ukraine by refusing to acknowledge proceedings in which they are named by their former names.

2. Use of Aliases and Changing of Names

As set forth above, the defendants became aware that various foreign governments were investigating them for the different thefts. To attempt to avoid detection while living in the United States, Cooper and Smith, among others, legally changed their names. Specifically, Smith was born in the Ukraine with the name "Igor Berkovich." In May 2015, Smith changed his name to "Igor Berk." In April 2018, Smith changed his name to "Garri Smith." Similarly, Cooper, who was born in the Ukraine as "Valeriy Kononenko," changed his name first to "Val Konon" in September 2006 and then again to "Val Cooper" in November 2016.

3. Use of Fraudulent Passports

Many of the thefts used fraudulent passports, which also shows the defendants' access to fraudulent passports and risk of flight. For instance, with respect to the January 2018 theft in Latvia, CC-2 used a fraudulently procured passport to open his/her account at the bank from which s/he, together with Smith, later stole the property. CC-2 also used his/her fraudulent passport in July 2017 to open accounts in North Macedonia as part of the theft there.

The same occurred with the September 2016 theft in Chisinau, Moldova in which Cooper and Berk participated. Specifically, CC-1, among others, used a fraudulent passport to open a safe deposit box at the victim bank in order to gain access to the safe deposit box room. When CC-1 went to the bank, there were not any available boxes but Smith, who had opened two boxes under his own name, gave CC-1 access to one of the boxes.

Similarly, in June 2018, there were multiple thefts committed in Russia. Multiple co-conspirators used fraudulent passports to open safe deposit boxes at the victim banks. A subsequent search of Cooper's cell phone in October 2018 revealed, among other

things, electronic messages containing photographs of some of the fraudulent passports used in the thefts in Russia.

II. Legal Standard

The Bail Reform Act directs courts to order a defendant detained pending trial if "no condition or combination of conditions would reasonably assure the appearance of the person as required and the safety of any other person and the community." 18 U.S.C. § 3142(e). While a finding of dangerousness must be supported by clear and convincing evidence, United States v. Ferranti, 66 F.3d 540, 542 (2d Cir. 1995), risk of flight can be proven by a preponderance of the evidence, United States v. Jackson, 823 F.2d 4, 5 (2d Cir. 1987).

The statute lists the following four factors as relevant to the determination of whether detention is appropriate: (1) the nature and circumstances of the crimes charged, (2) the weight of the evidence, (3) the history and characteristics of the defendant, and (4) the seriousness of the danger posed by the defendant's release. See 18 U.S.C. § 3142(g).

The Second Circuit has viewed home detention and electronic monitoring as insufficient to protect the community against high-risk individuals. In United States v. Millan, the Second Circuit held that:

> Home detention and electronic monitoring at best elaborately replicate a detention facility without the confidence of security such a facility instills. If the government does not provide staff to monitor compliance extensively, protection of the community would be left largely to the word of [the defendants] that [they] will obey the conditions.

4 F.3d 1039, 1049 (2d Cir. 1993) (internal citations and quotation marks omitted); see also United States v. Orena, 986 F.2d 628, 632 (2d Cir. 1993) ("electronic surveillance systems can be circumvented by the wonders of science and of sophisticated electronic technology") (internal citation and quotation marks omitted); see United States v. Dono, 275F. App'x 35, 37 (2d Cir. 2008) (noting that the idea that "'specified conditions of bail protect the public more than detention is flawed'") (quoting Orena, 986 F.2d at 632).

This comports with the Second Circuit's recent holding that the Bail Reform Act does not permit two-tiered bail systems where wealthy defendants are effectively released to self-funded private jails. See United States v. Boustani, 932 F.3d 79 (2d Cir. 2019). Indeed, the Court in Boustani affirmed detention based on flight risk alone, based in large part on the white-collar charges against him and the incentive and means to flee.

III. Discussion

Here, all of the Section 3142(g) factors weigh strongly in favor of detention, as set forth below.

A. Nature and Circumstances of the Offense

The nature and circumstances of the offenses illustrate that detention is warranted as to Cooper and Smith. These defendants, together with their co-conspirators, regularly traveled all over the world, including to many of the countries described above, to commit the various heists. Cooper and Smith also regularly traveled across the globe for other purposes, including all across Europe, China and other locations. This strongly counsels in favor of detention. See United States v. El-Hage, 213 F.3d 74, 80 (2d Cir. 2000) (noting that a defendant's "history of travel and residence in other countries" as one factor that has been long-approved by the Second Circuit in determining whether a defendant should be detained).

The manner in which the defendants committed their crimes also weighs strongly in favor of detention. Specifically, to commit the heists, the perpetrators opened banks under false pretenses, including at times using fake passports, used elaborate means to create duplicate keys, and then stole tens of millions of dollars. This degree of deception and sophistication shows the defendants' ability to flee to avoid facing the instant offenses.

In short, the serious nature and circumstances of the charged offenses demonstrate the serious risk of flight posed by the defendants.

B. Weight of the Evidence

The strength and variety of the evidence against the defendants also cuts in favor of detention. See 18 U.S.C. §3142(g)(2). For instance, the government anticipates offering at trial co-conspirator testimony describing the defendants' role in the charged offenses as well as witnesses from foreign countries describing the various thefts. Further, as set forth above, video surveillance, bank records, electronic messages and, as to Cooper, recorded conversations all provide exceedingly strong proof as to the defendants' guilt. Moreover, earlier today, agents discovered safe deposit box keys with no numbering on them, including one that appears to have been filed, from Cooper's residence as well as proceeds of the crimes, including cash, jewelry and high-end handbags. The strength of the evidence therefore weighs strongly in favor of detention. See Boustani, 932 F.3d at 82 (affirming detention based on flight risk alone, based in large part on the white-collar charges against him and the incentive and means to flee).

In short, the defendants face the prospect of convictions for significant federal crimes and therefore have an added incentive to flee. And if the defendants were able to flee to their native countries, they could never be extradited to face the instant charges. This also counsel in favor of detention.

C. History and Characteristics of the Defendants

All the defendants present significant flight risks because although they are U.S. citizens, they have significant ties abroad, including to their countries of origin where they hold citizenship: the Ukraine and Belarus. Cf. United States v. Baig, 536 F. App'x 91, 93 (2d Cir. 2013) (affirming detention order in part because the defendant "though a permanent resident of the United States, is a citizen of Pakistan and maintains ties there") (citing United States v. Mercedes, 254 F.3d 433, 438 (2d Cir. 2001) (reversing district court's grant of bail where defendant was a permanent resident of the United States and had consented to electronic surveillance and home monitoring)).

For instance, Cooper has family in the Ukraine, including his mother, and, together with his wife, owns property there. Cooper also owns property in, among other places, Russia. If Cooper were able to flee to either country, the government could not secure his extradition. This also weighs in favor of detention.

Cooper's ability to flee and seek refuge in the Ukraine is illustrated by his connections to high-level Ukrainian government officials. As set forth above, located within Cooper's residence was a sensitive law enforcement document created during the course of the investigation. Cooper was also captured on a lawfully recorded conversation indicating he had a source of information in the Ukrainian government, and that he expected to be able to pay a bribe in order to avoid prosecution. Therefore, even though other countries such as Ukraine are investigating Cooper for similar misconduct, he believes he can use his influence there to avoid facing the charges in the United States without suffering severe consequences there.

The vast amount of money stolen as part of the charged offenses, much of which is unaccounted for, also counsels in favor of detention. As set forth above, the various heists netted at least $30 million, including in the form of cash, stolen jewelry and other property that can be secreted and accessed when necessary. In addition, a search of Cooper's wife's telephone revealed evidence of large wire transfers totaling over $25 million, including some from Iran. This unexplained access to wealth also demonstrates the defendant's ability to flee. See United States v. Torres, 435 F. Supp. 2d 179, 182-83 (W.D.N.Y. 2006) (noting that magistrate judge relied on the defendant's "unexplained wealth" in denying the defendant's bail application).

Finally, Cooper and Levin also have criminal histories that counsel against pretrial release. Specifically, according to information provided by foreign law enforcement officers, in approximately 1986, Cooper was convicted in the former Soviet Union ("U.S.S.R.") of theft. Further, in January 2001, Cooper was cited for another criminal offense in the U.S.S.R. but did not face the charges as he evaded prosecution.

Levin has previously been convicted in this District. Specifically, in April 2000, Levin pleaded guilty to securities fraud for his role in a $100 million stock

manipulation scheme operated by, among others, members and associates of La Cosa Nostra and a Russian organized crime group. See 99-CR-589 (DLI) (E.D.N.Y.). In February 2002, Levin was sentenced to 24 months' imprisonment for his crimes.

D. Seriousness of the Danger Posed By Release

Finally, the seriousness of the danger posed by Cooper's and Smith's release also weighs in favor of detention. Although the defendants are not alleged to have used violence, they did use fraud, deceit and sophisticated means, all of which caused substantial harm to dozens of victims in multiple foreign countries. Were they to be released and able to flee, the defendants would be able to continue such offenses, further victimizing others. Therefore, this factor also counsels against pretrial release.

IV. Conclusion

For the reasons set forth above, the government respectfully submits that the Court should enter a permanent order of detention as to Cooper and Smith. Levin should also be detained, unless he presents a significant bail package that is fully vetted by the government and includes electronic monitoring conditions.

Respectfully submitted,

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cc: Defense Counsel (by E-mail and ECF)
Clerk of the Court (by ECF)