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1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK  
2 -----x

2  
3 UNITED STATES OF AMERICA,

3  
4 v.

09 CR 1184 (RJH)

4  
5 RAJ RAJARATNAM,

5  
6 Defendant.

6  
7 -----x

7  
8 New York, N.Y.  
8 April 20, 2011  
9 9:35 a.m.  
9

10 Before:

10  
11 HON. RICHARD J. HOLWELL

11  
12 District Judge

12  
13  
14 APPEARANCES

14  
15 PREET BHARARA  
15 United States Attorney for the  
16 Southern District of New York  
16 JONATHAN R. STREETER  
17 REED M. BRODSKY  
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18  
19 AKIN GUMP STRAUSS HAUER & FELD LLP  
19 Attorneys for Defendant  
20 JOHN M. DOWD  
20 TERENCE J. LYNAM  
21 MICHAEL STARR

21  
22 ALSO PRESENT: B.J. KANG, FBI  
23  
24  
25

14K8RAJ1 Summation - Mr. Brodsky

1 (Trial resumed; jury present)

2 THE COURT: Good morning, ladies and gentlemen.

3 We are going to have three closing arguments. First  
4 the government, Mr. Brodsky, will start and give a closing  
5 argument on behalf of the government. Then Mr. Dowd will  
6 present the closing argument on behalf of defendant. And then  
7 Mr. Streeter for the government will have an opportunity to  
8 make a rebuttal argument. So we will have three arguments all  
9 together. And we will go into tomorrow probably for these  
10 arguments. It will take some time because it has been a long  
11 case.

12 We will start with Mr. Brodsky.

13 MR. BRODSKY: Thank you, your Honor.

14 Corrupting his friends and employees to gain access to  
15 secret information to get an illegal advantage over ordinary  
16 investors in the stock market, because of money, pressure,  
17 and to use the defendant's own words, "I wanted the recorded  
18 conversations because of a conquest." That's what the evidence  
19 showed. That's what the defendant did.

20 Members of the jury, when this trial began, we told  
21 you the evidence would prove beyond a reasonable doubt that the  
22 defendant used stolen business information to make tens of  
23 millions of dollars in illegal profits, and that the defendant  
24 corrupted well connected friends and employees to get access to  
25 secret information, and that the defendant illegally traded,

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Summation - Mr. Brodsky

1 tips about yet to be announced events relating to Goldman  
2 Sachs.

3 You also heard from one of his trusted former  
4 employees Adam Smith, who described how he obtained inside  
5 information from the investment banker Kamal Ahmed and then  
6 shared that information with the defendant, and he also  
7 described how the defendant told him how to cover his tracks  
8 with cover e-mails, with buying and selling, and by not putting  
9 things in writing.

10 The defendant's insider trading schemes helped him pad  
11 his profits in the funds that he was managing. And by  
12 increasing these profits, he made more money. And these  
13 schemes also helped Galleon become more successful, and they  
14 kept the defendant at the top, in what clearly became a game to  
15 be the best in a highly competitive industry, to conquer the  
16 stock market at the expense of the law and every ordinary  
17 investor.

18 We submit the evidence presented in this case -- the  
19 recordings, the electronic trail of evidence, the corroborated  
20 testimony of each of the cooperating witnesses, and the  
21 insiders who breached their duties disclosing information to  
22 the defendant -- leads to one and only one conclusion: That  
23 the defendant is guilty of all the charges in the indictment.

24 Analysts at Galleon may have been doing research, and  
25 some employees at Galleon were just doing their job, but the

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1 defendant stood above all of that, and he did it, and he  
2 cheated, and he did it over and over again.

3 During the summation I am going to explain to you why  
4 the evidence presented in this case leads to that unshakeable  
5 conclusion.

6 In the summation, I would like to accomplish a few  
7 things.

8 First, I want to review the overwhelming evidence of  
9 Rajaratnam's multiple schemes to obtain and then trade on  
10 inside information, captured on the recorded conversations,  
11 proven by the electronic evidence, and described by the  
12 cooperating witnesses. All of this evidence demonstrated in a  
13 clear and powerful way that the defendant engaged in multiple  
14 insider trading schemes, one with Anil Kumar, one with Rajiv  
15 Goel, one with some Galleon employees, one with Danielle  
16 Chiesi, and one with Roomy Khan. Five schemes. I will be  
17 going through each of those schemes. I can't get to all the  
18 evidence we presented relating to those schemes or we would be  
19 here for days, but what I will do is I will hit the highlights  
20 for each of those schemes and show how the evidence we  
21 presented and admitted in this court overwhelmingly proved each  
22 of those schemes.

23 Second, I want to talk about how the evidence showed  
24 the defendant knew what he was doing was wrong and used various  
25 mechanisms to try to cover up his crimes.

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1 Third, I want to talk about how the information that  
2 the defendant got from his corporate spies -- the Kumars, Goel,  
3 Gupta, and others -- was far superior, far more reliable, far  
4 more accurate than the rumors and speculation that was rampant  
5 in the media and the press and the news articles and  
6 conflicting analyst reports about every stock, which the  
7 defense relies on for this flawed notion that the inside  
8 information the defendant got from these insiders was already  
9 public.

10 And finally, I want to talk a little bit about how the  
11 evidence demonstrated the secret information that the defendant  
12 got from his inside sources would be important to a reasonable  
13 investor in determining whether or not to buy or sell stock.

14 Let's talk first about the defendant's scheme with  
15 Anil Kumar. What did the evidence show about how this scheme  
16 between the defendant and Kumar got started?

17 The evidence showed it got started gradually. The  
18 defendant Kumar became friends. The defendant was running  
19 Galleon at the time and Kumar was a senior partner at the  
20 worldwide consulting firm of McKinsey. In 2002, Kumar tried to  
21 get the defendant interested in hiring McKinsey for its  
22 services, but Rajaratnam wasn't interested. What Rajaratnam  
23 wanted was access to Kumar's secrets, the kind of information  
24 that was closely guarded, the kind of information not available  
25 to the public, although Kumar didn't know it from the outset.

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Summation - Mr. Brodsky

1 Rajaratnam said he paid Kumar \$500,000 a year for  
2 Kumar's insights. Why so much money? Because the defendant  
3 wanted more than just general insights that you could look up  
4 on the Internet, or that you could have one of your analysts  
5 look for in publicly available sources. What the defendant  
6 wanted was material nonpublic information that Kumar was  
7 learning at McKinsey from McKinsey's clients.

8 McKinsey naturally didn't allow these kinds of  
9 consulting arrangements. Kumar wasn't allowed to be paid on  
10 the side by a hedge fund that was going to be trading stocks  
11 based on Kumar's information. But the defendant agreed to help  
12 Kumar conceal the payments to McKinsey from McKinsey. And that  
13 fit perfectly within the defendant's plan. If McKinsey found  
14 out about the arrangement, then Kumar wouldn't be able to pass  
15 him those business secrets. So Rajaratnam suggested wiring the  
16 money offshore in an account in someone's name other than Anil  
17 Kumar. And then he suggested that the money get wired back  
18 into Galleon in the name of someone other than Kumar, this time  
19 Kumar's housekeeper Manju Das. And that's what happened.

20 You see here what happened. This is a display that  
21 explains it. The defendant was wiring money to Anil Kumar in  
22 the name other than Anil Kumar offshore to Pecos Trading. Then  
23 money came right back in a round-trip fashion, back into  
24 Galleon, to be invested in a name other than Anil Kumar again,  
25 Manju Das. It wasn't very long before the money started going

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Summation - Mr. Brodsky

1 to Kumar that the defendant started pressing him for inside  
2 information.

3 Now, does it make sense that this scheme didn't begin  
4 with a written document setting forth the illegal agreement  
5 between the defendant and Kumar? Of course it does. Your  
6 common sense tells you that's not the way the real world works.  
7 Had the defendant proposed that he get illegal secret  
8 information from Kumar, with Kumar breaching his duties, Kumar  
9 never would have agreed to it at the outset. But having  
10 received a large amount of money from the defendant, Kumar felt  
11 obligated to give the defendant what he wanted.

12 Your common sense tells you that illegal agreements  
13 don't start off with two people sitting down around the table  
14 and entering into a written or oral pact about committing a  
15 crime, and spelling out details like, I will give you inside  
16 information in breach of my duty relating to AMD, and in return  
17 you pay me \$125,000 a quarter. That's not the reality. It's  
18 rare for two people to make an explicit agreement to violate  
19 the law.

20 Your common sense tells you that the defendant's money  
21 corrupted Kumar, and once he took that money, and it was a lot  
22 of money, Kumar felt obligated to answer the defendant's  
23 questions asking for secret information. If you receive a lot  
24 of money from someone for providing insights, you're going to  
25 want to answer their questions. They are paying for answers.

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Summation - Mr. Brodsky

1 And when those questions started coming to Kumar for secret  
2 information, Kumar had a choice and he made it. He committed a  
3 crime. He started giving the answers, he started providing  
4 secret information in breach of his duties. And once that  
5 happened, their criminal understanding, their criminal  
6 agreement began.

7 What is the significance of the complexity of these  
8 round-trip payments from Galleon to offshore to a different  
9 name back to Galleon in the name of Manju Das? It tells you  
10 right away that the defendant knew what he was doing was wrong.  
11 He knew Kumar was violating McKinsey's policies. And he was  
12 willing to go through those machinations and use those phony  
13 account names to make sure Kumar got paid for providing  
14 corporate secrets. Wiring money offshore to someone in  
15 someone's name is one thing. Wiring money offshore to get  
16 money to somebody, in an account not in their name, knowing  
17 that it's not in their name purposefully, in order to evade  
18 that employer's policies and procedures, that's quite another  
19 thing. It's a telltale sign that the defendant knew Kumar was  
20 prohibited from providing these corporate secrets, that the  
21 defendant was going to do whatever was necessary to get the  
22 money in Kumar's pockets so Kumar would start providing him  
23 with material nonpublic information about quarterly earnings,  
24 about acquisitions, and about corporate events.

25 How do you know the defendant engaged in a scheme with

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1 Kumar to get these corporate secrets for the purposes of  
2 trading based on them? You have heard the most powerful  
3 evidence of the defendant's guilt. His own voice on multiple  
4 recorded conversations with Kumar asking for information and  
5 then getting inside information from Kumar. On these recorded  
6 conversations, you have heard the defendant engaging in his  
7 scheme in real time. These calls have stripped away the veil  
8 of legitimacy surrounding his trades based on Kumar's tips, and  
9 they have exposed his crimes to the light of day. These  
10 recordings alone lead to the unshakeable conclusion that he is  
11 guilty as charged of engaging in an illegal scheme with Kumar  
12 to get and then trade on inside information.

13 Let's go to the tapes. These tapes aren't snippets of  
14 conversations. What are they? They are devastating proof of  
15 the defendant's guilt.

16 Government Exhibit 506T. You heard this conversation  
17 between Kumar and the defendant. On March 24, 2008, this was  
18 shortly after the wire began on the defendant's cell phone.  
19 Kumar had called the defendant from Tokyo, and he tells him  
20 immediately about a corporate secret regarding a McKinsey  
21 client, and then the defendant begins to ask him about a  
22 confidential investment of a processor company and the timing  
23 of the public announcement of that investment.

24 What did this conversation show before we actually get  
25 to parts of the conversation? It showed that Kumar was

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1 processor company is AMD. And what does Kumar do? He tells  
2 the defendant nonpublic information about quarterly earnings.  
3 The defendant is asking about what is going on at AMD. And you  
4 see here Kumar responds, there are 11 to 15 percent reduction  
5 in revenues at AMD. Kumar knows about this because AMD is one  
6 of his clients and he is learning this secret. And as you have  
7 learned through this trial, through all the company witnesses,  
8 it's widely known among Wall Street, certainly among  
9 professionals, that current quarterly earnings are secret.  
10 They are not released to the public until after the quarter  
11 closes, weeks later, when they are announced to the public in a  
12 big press release and a conference call with analysts. And  
13 here is the defendant asking Kumar about the earnings for the  
14 current quarter and Kumar disclosing it in breach of his  
15 duties.

16 Then the defendant asks about that AMD investment.  
17 What becomes here is eventually the Mubadala investment in AMD.  
18 And Kumar tells him the investment will proceed, but we are not  
19 sure what is happening, but it's proceeding.

20 We can go to the next slide. Rajaratnam then asks  
21 him, "You think it will be done with the announcement?" And  
22 Kumar tells him it's not very soon, it could take two months,  
23 it's not like weeks. And the defendant responds, "Oh, my god,  
24 right, right, right."

25 This is the defendant learning a corporate secret,

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1 material nonpublic information about the timing of a potential  
2 investment in AMD. While there may be rumors or speculation  
3 out there, the defendant is getting hard information from  
4 somebody who actually knows. The timing of a deal of course is  
5 critically confidential, as we will talk about later.

6 Let's go to another wire call between Kumar and the  
7 defendant. It's Government Exhibit 523T. You heard on this  
8 one it was May 2, 2008. You heard during this conversation  
9 Kumar revealing that there was a term sheet due the next day  
10 for Spansion. Now, you know from this trial that a term sheet  
11 basically means it's one of the first steps that a company may  
12 be acquired. The investment bank is working on the deal, they  
13 create a term sheet, the term sheet sets out the proposed terms  
14 to acquire the company. And there is a term sheet for Spansion  
15 about the potential acquisition of Spansion. That is material  
16 nonpublic information until the announcement is made.

17 Let's go to part of the transcript where the defendant  
18 asks Kumar, What's going on? Kumar is telling him there is a  
19 term sheet due on the 3rd of May, which is I guess tomorrow.  
20 If we go to the next line, Rajaratnam asks him on this call,  
21 based on knowing that there is going to be a term sheet and  
22 Spansion might be acquired, do you think we should buy some  
23 Spansion for other funds? Kumar says, Let me see what the  
24 offer comes in as tomorrow; there are two companies making bids  
25 for it. So on this very call Kumar is tipping him with secret

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Summation - Mr. Brodsky

1           What did the defendant mean by that? What he meant  
2 was that after a term sheet, they had a little bit of time, as  
3 you heard from several of the witnesses, there is a little bit  
4 of time before the acquisition actually takes place, so there  
5 is time for the defendant to buy stock based on Kumar's tips.  
6 And then the defendant instructs his employees to make sure we  
7 keep these conversations just privileged to the three of us.  
8           And this next part is critical. He instructs them to  
9 create a cover e-mail trail. Let's go through that. You will  
10 see, why does he do it? What does your common sense tell you  
11 about why, after he got a tip from Kumar about the potential  
12 acquisition of Spansion, and planning to buy stock in Spansion,  
13 he is then planning to create a cover e-mail trail. Let's go  
14 through it and then we will answer that question.  
15           Let's put up the next slide. What the defendant says  
16 to his employees, "The best way to do these things is to say,  
17 you know, I will send you an e-mail, saying, you know, have you  
18 guys thought of Spansion, the stock looks cheap."  
19           Now, you know the defendant is not thinking of buying  
20 Spansion because the stock looks cheap. He just got the tip  
21 from Kumar that Spansion might be acquired. And the reason why  
22 he is interested in buying it is based on that the tip, not  
23 because of anything about the stock looking cheap. He wants to  
24 send an e-mail to basically create this cover trail, to find  
25 some other third reason on paper as to why he is buying the

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Summation - Mr. Brodsky

1 stock.

2 Let's go to the next slide. And the defendant  
3 continues, he says, "And you send an e-mail back saying, I will  
4 get Langley to do some work or something like that."

5 Now, keeping that slide up there for a moment, who is  
6 Langley? Langley, as you learned from the trial, was a  
7 research analyst at Galleon at the time. And what the  
8 defendant is telling Chellam and Panu here, the reason why this  
9 is so important is it's proof in the defendant's own words that  
10 at times he used his research analysts to create a phony  
11 back-up documentation, so he could later point to those  
12 documents if government regulators or securities regulators  
13 ever asked him about why he was making those trades. There is  
14 no research to be done here. He got the tip from Kumar. He  
15 wants to buy Spansion. He has a little time before it's going  
16 to be taken out. He doesn't need Langley to go out and do  
17 research on Spansion because he already knows why he wants to  
18 buy it.

19 What is Chellam's response? Chellam says, "Yeah,  
20 perfect." Panu says, "Yeah." They agree. Does that sound  
21 like, these responses, the first time Chellam and Panu have  
22 engaged in this kind of illegal conduct with the defendant? Of  
23 course not.

24 And you know from the past evidence that I just talked  
25 about that Chellam and Panu had been providing, before they

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Summation - Mr. Brodsky

1 Kumar.

2 Now, there is yet another recording a few hours later  
3 between the defendant and his brother Rengan. That's  
4 Government Exhibit 559. And I am not going to play all the  
5 calls, obviously, during this summation, but during your  
6 deliberations, you can ask for any recorded conversation, and  
7 if you want to hear any of those recorded conversations, you  
8 can ask for them and get them.

9 Now, 559T, during this call, which took place the same  
10 day, the defendant tells Rengan he just heard about the  
11 handshake deal on AMD, and he says to Rengan, his brother,  
12 "That AMD had a handshake with the Arabs." And Rengan asks  
13 him, "With who?" The defendant says, "The Arabs to put six  
14 billion dollars." And there's the proof right there that he is  
15 buying based on Kumar's tip: "I am buying some, I bought,"  
16 meaning he has bought AMD shares based on Kumar's information.  
17 And then he says, "I am buying 250 for you." I am buying  
18 250,000 shares for you. And Rengan's response of course is  
19 thank you.

20 Now, you know there are two reasons that is secret  
21 information from Kumar. You hear Kumar tell that to the  
22 defendant and you hear on this call that the defendant is  
23 buying based on that information.

24 Let's look at the stock chart, Government Exhibit 22,  
25 and let's look at how many shares he bought after this call.

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Summation - Mr. Brodsky

1 If you look at this chart, before this call he had a million  
2 shares on August 14. The call takes place on August 15, and by  
3 the end of August 15, by the end of the day, after Kumar told  
4 him they have shaken hands, he had 4 million shares of stock in  
5 AMD. And within three days, by August 18, by the end of the  
6 week, he had 11 million shares of stock in AMD. That's based  
7 on Kumar's tip.

8 In Government Exhibit 594TR, this was another call on  
9 August 27, 2008, where the defendant is talking with Chiesi,  
10 Danielle Chiesi, about buying and selling AMD stock in order to  
11 show a pattern of trading in case there is an investigation. I  
12 will talk about this call a little bit later, but that call  
13 shows you at this time, you see on part of the transcript,  
14 Chiesi asks the defendant, after they talk about how they got  
15 information from Kumar, that they have shaken hands, Chiesi  
16 says, "Do you think that I should be showing a pattern of  
17 trading in AMD?" The defendant says, "I think you should buy  
18 and sell and buy and sell, you know."

19 They are talking about that because Chiesi is worried  
20 about an investigation, because they are sharing inside  
21 information and exchanging that with each other, and they are  
22 worried, if there is a investigation, they need to protect  
23 themselves. Why else would he advise Chiesi to buy and sell,  
24 buy and sell? The only rational explanation is he wanted to  
25 make sure that he didn't get caught. This is a devastating

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Summation - Mr. Brodsky

1 money from Kumar's tips on AMD. Now, he would have lost a lot  
2 less if he had sold on the first day instead of holding it for  
3 a long period of time, for his own reasons. We know why he  
4 lost money on his illegal tips. Not because the deal didn't  
5 happen. Kumar's tips were right. His tips were accurate. His  
6 tips were secret. His tips were material. His tips were  
7 nonpublic information. But the reason why he lost money was  
8 the reason why millions of people lost money in the stock  
9 market. It just so happened that AMD announced the deal at a  
10 time of one of the greatest financial collapses in American  
11 history.

12 (Continued on next page)

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14KFRAJ2

Summation - Mr. Brodsky

1 MR. BRODSKY: That does not mean the defendant didn't  
2 get illegal tips, and more to the point, losing money isn't a  
3 defense to insider trading. You don't need to profit from  
4 insider trading to be guilty of the crime of insider trading,  
5 and the evidence is overwhelming of the proof that the  
6 defendant and Kumar conspired with each other.

7 Now what other recordings are there to show the  
8 defendant knew he was getting insider information from Kumar?  
9 There's the recording in early October 2008 when Kumar tells  
10 the defendant that eBay is going to do a massive layoff on  
11 Monday, and Kumar learns about it from his work. Remember that  
12 document that Kumar had received from work, it had  
13 "confidential" in capital letters with three exclamation  
14 points? He learned it from an e-mail at work, it was  
15 confidential information from one of McKinsey's clients, eBay.  
16 And Kumar immediately picks up the phone on October 3, 2008,  
17 early in the morning and he calls the defendant. This is  
18 Government Exhibit 647. And this tape once again shows how  
19 commonplace it was for these two, for Kumar to disclose secret  
20 information and for Rajaratnam to then take the information to  
21 trade on.

22 Right after the defendant gets the tip from Kumar that  
23 eBay is going to do a massive layoff on October 3, which is bad  
24 news, it was early in the morning, around seven something in  
25 the morning, Rajaratnam then shorts the position. He knows

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14KFRAJ2

Summation - Mr. Brodsky

1 eBay stock is going to go down, so he shorts the position,  
2 which is betting the stock is going to go down and he shorts it  
3 on October 3, 2008. And we introduce the records showing what  
4 time did he short the position? He shorted it very early in  
5 the morning, at 9:34 a.m. And when eBay announced the layoffs,  
6 the defendant made over \$800,000. That's Government Exhibit  
7 25.

8 Now, through cross-examination and his expert witness  
9 the defendant's apparent defense is that there was news out  
10 there talking about possible layoffs coming to eBay. There are  
11 four reasons why this makes absolutely no sense, despite the  
12 fact the defendant is caught on tape. First, there's no  
13 evidence the defendant saw that Bloomberg News report dated  
14 September 27, 2008. It's not a Galleon document. It doesn't  
15 come from Galleon's files. But if you look at that, there's no  
16 evidence -- that's September 27 -- that anybody saw it at  
17 Galleon.

18 Second, the wire call tells you the defendant didn't  
19 see or rely on this article. When you listen to that call, how  
20 did the defendant respond when Kumar told him there was going  
21 to be massive layoffs at eBay? Did he say, "Anil, I already  
22 knew about it, I read it in Bloomberg, it's public  
23 information"? Absolutely not. What he responded and said on  
24 that call was, "They're going to do what?" And then after  
25 Kumar told him there were going to be massive layoffs, within

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14KFRAJ2 Summation - Mr. Brodsky

1 hours he's trading on that stock and he's shorting.

2 The third -- how else do you know? The third reason.  
3 The defendant didn't short eBay after that article on  
4 September 27, on the 28th, on the 29th, on the 30th, on  
5 October 1, on October 2. He only did it after Kumar's call,  
6 because only Kumar's call, only Kumar's information was solid  
7 information. And in fact, what did the defendant do after the  
8 September 27, 2008 call? What he actually did was he covered  
9 some of his previous short position. He had an early short  
10 position in early September 2008 on eBay and after that  
11 Bloomberg article saying bad news is going to happen, he  
12 actually started buying shares of eBay stock, the opposite of  
13 what you would do if you were looking at that article.

14 Now, their defense here doesn't really make any sense  
15 because they portray the defendant, who Mr. Schutte, this  
16 professional money manager, being paid millions of dollars to  
17 run a fund based on expert analysis, and yet at the same time  
18 they suggest that somehow he's trading on this one-paragraph  
19 Bloomberg News account on September 27, which is the opposite  
20 of how he trades. And in this Bloomberg account, it relied on  
21 this focus report and focus didn't say where they got the  
22 information. And remember, I asked Mr. Schutte, what is focus?  
23 Mr. Schutte, who described the rigorous Galleon process of  
24 research, he didn't even know what a focus was. So the notion  
25 that any professional money manager who didn't even know what

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14KFRAJ2

Summation - Mr. Brodsky

1 focus was would rely on this Bloomberg article to try to trade  
2 is just absurd.

3 You know the reason why he traded eBay. You heard it  
4 from Mr. Kumar himself. You know the reason why from the  
5 trading records, from the recorded conversation and from the  
6 evidence of the case.

7 Now, in addition to all of that, how else do you know  
8 the defendant engaged in an insider trading scheme with Anil  
9 Kumar? Because Mr. Kumar took the stand and gave you a  
10 firsthand account of how the defendant knowingly, intentionally  
11 and brazenly asked him for secret information and paid him for  
12 it. Kumar described in detail how he received over \$2 million  
13 from the defendant in exchange for providing these corporate  
14 secrets. He told you about the convoluted steps that he went  
15 through to try to paper trail it and cover up the fact that he  
16 was violating McKinsey policy, about the round-trip wire  
17 payments into offshore accounts not in his name and about the  
18 payments coming back in the name of his housekeeper to Galleon.

19 His account is completely corroborated by the recorded  
20 conversations, by the e-mails, other documents showing that  
21 Kumar was getting the secret information as he was passing it  
22 to the defendant. The wire calls, of course, showed that he  
23 contacted the defendant after getting the secret information.  
24 The trading records corroborated Kumar's account that the  
25 defendant was trading based on Kumar's secret information and

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Summation - Mr. Brodsky

1 Kumar's testimony was also corroborated by all the wire  
2 payments to Kumar's offshore account.

3 Now, you've heard two very different versions of the  
4 defendant's relationship with Kumar, and it's going to be up to  
5 you to assess Kumar's credibility. And in thinking about this  
6 question, think about how Kumar's testimony fits together with  
7 all the other evidence in the case; the recorded conversations  
8 with the defendant, the recorded conversations between the  
9 defendant and other people at Galleon about Kumar's tips, and  
10 the recorded conversations about the defendant describing the  
11 steps he took to conceal that he was trading based on Kumar's  
12 tips. And in considering Kumar's testimony, use your common  
13 sense, the common sense that you bring with you into this  
14 courtroom that's used in your everyday lives.

15 For example, Kumar testified that he illegally tipped  
16 the defendant repeatedly about secret information that Kumar  
17 learned from inside the corporate offices of AMD in 2006  
18 regarding AMD's acquisition of ATI, before any public  
19 speculation and long before AMD's public announcement of its  
20 acquisition of ATI. Now, this account that Kumar said fits  
21 completely with the evidence.

22 If we put up the ATI stock chart. This shows the  
23 defendant's trading from January 1, 2006 through July 28, 2006  
24 in ATI. How is Kumar's account corroborated? First, you have  
25 the internal e-mails of McKinsey that shows that Kumar obtained

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Summation - Mr. Brodsky

1 the secret information from the transaction for months because  
2 Kumar was part of that inner circle at AMD who was learning  
3 about all the developments in the negotiations. And in that  
4 role as he learned the developments, he told them to the  
5 defendant. And the e-mails will show and corroborate this  
6 account.

7 So the first one is Government Exhibit 815. We're  
8 putting up here the first, which is February 5, 2006, that  
9 early call, an early e-mail in which Kumar gets on February 5,  
10 2006 that the CEO feels he could get to a deal by the end of  
11 March. That's the ATI CEO who feels that the deal could be  
12 done by the end of March.

13 What are you seeing the defendant doing learning that  
14 ATI might be acquired by the end of March? You see his trading  
15 here and he's ramping up his trading before the end of March.  
16 Towards the end of March, he owns 3 million shares, because  
17 he's expecting the deal might take place.

18 Government Exhibit 822. It's an April 10, 2006 e-mail  
19 to Kumar, and it's about how ATI seems definitely interested  
20 and it appears to be now a matter of price. Now, he now knows  
21 that it's going to continue, and so he continues to hold his  
22 stock position and he increases his stock position once again  
23 in ATI.

24 Government Exhibit 826. It's a May 24, 2006 e-mail to  
25 Kumar regarding the initial offer of \$20, representing a

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Summation - Mr. Brodsky

1 20 percent premium and the defendant's position now really  
2 starts to climb, as you note the rampup in stock of ATI. He  
3 learns this from Kumar who told you about how he told the  
4 defendant of each of the developments as he learned about it,  
5 and here the defendant's trading is consistent with that. He  
6 ramps up and now buys over 4 million shares of stock.

7 Government Exhibit 828, May 17, 2006. There's an  
8 e-mail to Kumar, it's called GoBig update, and in this e-mail  
9 an AMD executive thinks that \$24 per share for ATI stock is  
10 likely to compromise and expects it to be done reasonably soon.  
11 And you see that update goes from Kumar to the defendant, and  
12 he begins to increase his position once again in owning ATI  
13 stock.

14 Then there's the next e-mail, Government Exhibit 836.  
15 On July 5, 2006, Kumar gets an e-mail and Kumar actually sends  
16 this e-mail and says July 24 is action week. This is an e-mail  
17 exchange within McKinsey and discussing with other McKinsey  
18 partners the developments in AMD's acquisition of ATI, and at  
19 this point on July 5, 2006 the defendant then learns from  
20 Kumar, because Kumar is learning it within McKinsey, that the  
21 deal is going to be announced July 24, the week of July 24.

22 Look at the defendant's trading. The defendant ramps  
23 up his position, buying more and more ATI stock knowing exactly  
24 when the deal is going to be announced, and then -- and this is  
25 important -- and then, if you look here, right before the

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Summation - Mr. Brodsky

1 defendant knows the deal is going to be announced, because he  
2 knows the exact timing as he has an insider at McKinsey who is  
3 telling him this information, he buys several hundred thousand  
4 shares and then sells, right before he knows the deal is going  
5 to be announced, once again buying and selling.

6 And why does he do that? You know why he does it,  
7 because he advises Chiesi to do it. When you have inside  
8 information and you want to throw off the authorities and you  
9 want to make sure you have a false excuse to point to when the  
10 authorities come asking as to why you're trading, you say, "Why  
11 in the world would I sell my stock before the announcement?  
12 Nobody would do that." Well, the defendant knows that and does  
13 this as a method to throw off the regulators. But he's been  
14 caught on tape as to that method and now it's corroborative  
15 evidence that Kumar getting this information was passing it  
16 along to the defendant and the defendant was acting on it. And  
17 you can see that through e-mail after e-mail.

18 So all these trading records show and corroborate the  
19 information Kumar was providing, was providing to the  
20 defendant.

21 How else do you know? A third reason you know is  
22 these same trading records show that the defendant had by  
23 May 30, 2006 \$74 million worth of ATI stock before there were  
24 any news articles or analysts speculating about the deal. Look  
25 at that enormous position in ATI stock, before there were news

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Summation - Mr. Brodsky

1 Now, the defense for the ATI trading seems to be,  
2 based on the defense case, that there was chatter in the public  
3 about it and the trading was based on Adam Smith's analysis at  
4 the time. There are a lot of problems with that story, the  
5 biggest hole being there was no real public chatter or  
6 speculation prior to May 2006. ATI was mentioned as one of  
7 five, ten, twelve possible acquisition targets, in analyst  
8 reports buried pages beneath when they talk about lots of  
9 companies possibly being the subject of acquisition talks. The  
10 reason why there's no real public speculation about this is  
11 because there wasn't even a real rumor about it before May 31,  
12 2006 when the defendant has a \$7 million dollars position, is  
13 because in the industry it didn't make sense. It didn't make  
14 sense AMD was going to acquire ATI. And remember when Kumar  
15 told the defendant, the defendant couldn't believe it that ATI  
16 would be acquired in a deal.

17 Now, as far as relying on Smith's analysis, you heard  
18 Smith's testimony. He had two torpedoes in the water, to use  
19 his expression. He had one torpedo in the water about his own  
20 analysis of ATI's earnings and the second torpedo was the  
21 illegal tip from Kamal Ahmed. You know the defendant had at  
22 least two illegal torpedoes in the water. He had Kumar's  
23 illegal tips coming time after time giving updates and Smith's  
24 information from Kamal Ahmed.

25 Now, I expect the Court will instruct you that the

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Summation - Mr. Brodsky

1 defendant uses the information, the material non-public  
2 information, if it's a factor in his decision to buy and sell  
3 the stock. It need not be the defendant's only consideration  
4 and it's very difficult for material information to lay idle in  
5 the human brain. Here you know that the defendant used Kumar's  
6 illegal tips to make his trades and used some of Smith's  
7 information from Kamal Ahmed to make his trades. This  
8 information, this material non-public information did not lie  
9 idle in the defendant's brain when he was making these trades  
10 on ATI stock.

11 So to summarize the conspiracy between Kumar and the  
12 defendant: You have recorded conversations where Kumar is  
13 providing the defendant with inside information about AMD,  
14 Spansion and eBay. Now, there are a bunch of other stocks that  
15 Kumar testified he tipped him on. I can't get to everything.  
16 There's documents showing the round-trip transfers of money to  
17 Kumar using the phony account names and then back into Galleon  
18 using the name of Kumar's housekeeper, Manju Das. There are  
19 the contemporaneous e-mails and documents showing Kumar  
20 receiving the material non-public information from McKinsey and  
21 then passing it along to the defendant, you heard that through  
22 his testimony and the defendant's trading consistent with the  
23 receipt of those e-mails, and then there's the trading records.  
24 All of this evidence demonstrates in an overwhelming way the  
25 defendant is guilty with conspiring with Kumar to trade on

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Summation - Mr. Brodsky

1 inside information and he actually traded ATI stock during that  
2 time period based on Kumar's inside information.

3 Let's talk now about the scheme with Rajiv Goel. What  
4 did the evidence show about the background of the defendant's  
5 scheme with Rajiv Goel? You remember Mr. Goel, they both --  
6 Mr. Goel graduated from Wharton with the defendant. They went  
7 to business school together and they weren't close for many  
8 years and then they became closer when Mr. Goel moved back to  
9 the United States, joined Intel in roughly 2000, 2001. He rose  
10 to become an executive there in Intel treasury, and during that  
11 time they became very close friends. And Goel clearly felt  
12 indebted to the defendant, and wanted to help him out by  
13 breaching his duties and giving him secret information.

14 Now, why was that? The defendant had loaned Mr. Goel  
15 \$100,000 in 2005. And Goel never repaid him. And then the  
16 defendant gave Goel a gift of \$500,000 in 2006, that's the  
17 money that got sent to the Swiss account that Mr. Goel opened  
18 up.

19 At the same time that he was giving him all this  
20 money, you remember the testimony and you saw the Charles  
21 Schwab documents showing that the defendant was trading in  
22 Mr. Goel's Charles Schwab account and between 2005 and 2009 he  
23 had made over \$700,000 for Mr. Goel in a Charles Schwab  
24 account. So Goel believed the defendant was generous, but at  
25 the same time that money and their friendship gave Mr. Goel

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Summation - Mr. Brodsky

1 more than enough incentive to violate Intel's confidentiality  
2 policies and provide the defendant with secret information for  
3 trading purposes.

4 Now, I expect that you'll hear from Judge Holwell that  
5 he'll instruct you that to violate the insider trading laws the  
6 insider must receive some kind of benefit in exchange for  
7 disclosing the secret information. And you'll hear that a gift  
8 out of friendship from the insider is enough to show there was  
9 a benefit to the insider for breaching his duty of  
10 confidentiality. In other words, an insider receives a benefit  
11 if he gives a gift of information out of friendship to someone  
12 so that person can trade on the information.

13 Now, how do you know the defendant engaged in a scheme  
14 with Goel to get and then trade based on inside information?  
15 Once again, the best evidence of the scheme, the most powerful  
16 evidence of the scheme, are once again the wiretaps. In March  
17 of 2008, Mr. Goel had access to inside information about  
18 Clearwire's proposal to combine its Spectrum with Sprint, that  
19 Intel was going to invest a billion dollars in the deal and  
20 that other companies would contribute as well and there would  
21 be a total of 3.5 billion and a split equity stake, so they  
22 each had an equity stake in the deal.

23 The tapes unmistakably show Goel was providing the  
24 defendant with material non-public information about Clearwire,  
25 including the following: The amount of money that Intel was

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Summation - Mr. Brodsky

1 going to contribute, the billion dollars; Intel's ownership  
2 percentage of 10 percent, the percentage of ownership of the  
3 other parties to the deal, the names of the other participants  
4 to the deal. Now, remember, BestBuy kept being bandied about  
5 everywhere. You saw every speculation about who might be  
6 involved. BestBuy was involved in every speculation about who  
7 might be involved. BestBuy was never involved in that deal.  
8 You heard that from Mr. Viswanathan. If anybody bought stock  
9 based on that rumor, they would have lost a ton of money based  
10 on that, because BestBuy was never involved.

11 Intel's board approval was another thing. Mr. Goel  
12 told Mr. Rajaratnam that Intel had approved, Intel's board  
13 approved the billion-dollar investment and the possible timing  
14 of the announcement of the deal.

15 Let's again go to the tapes. If we go to 502T, page  
16 2, you hear in this part of the call in 502T, which was a call  
17 that took place on March 19, 2008, Goel told the defendant he  
18 was going to meet with Sriram Viswanathan and you heard him  
19 testify, and he was going to meet with him the following day to  
20 find out more about the Clearwire deal with Sprint.

21 Go to page 3. Goel then tells the defendant there's  
22 an Intel board meeting later that day, and he's clearly telling  
23 the defendant is board is going to consider the Intel  
24 investment for the new Clearwire company. At the end of the  
25 call, Rajaratnam thanked Goel for the information.

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Summation - Mr. Brodsky

1           Let's go to 503T. It's a call the next day between  
2 Goel and the defendant, it's March 20, 2008, it's at night and  
3 you heard Mr. Goel and the defendant discuss the information  
4 Goel had provided to the defendant relating to the deal. That  
5 wasn't captured on the wire, but you know which call it was,  
6 and Government Exhibit 7, which is one of the summary charts in  
7 evidence, there's a call between Mr. Goel at about 5:00 or so  
8 on March 20 and Mr. Rajaratnam. And during that call, that's  
9 when Goel describes the details that he was able to learn about  
10 the transaction from inside Intel, details that Mr. Viswanathan  
11 told you were critically confidential, were important, and were  
12 non-public.

13           And then during the call, 503T, Goel tells Rajaratnam  
14 it's evident they're talking about the information Goel had  
15 told Rajaratnam about the details of what he heard from  
16 Mr. Viswanathan. At the beginning of the call Goel tells him,  
17 if we go to the next slide, "So did you digest the information  
18 I gave you?" He's talking about the information, the inside  
19 information he had given him earlier that day.

20           Let's go to the next slide. Rajaratnam is  
21 acknowledging, and you put a billion, 1.6 billion. Remember  
22 this? The billion dollars, Mr. Goel explained, was of course  
23 the Intel putting in a billion dollars into the deal. The  
24 extra \$600 million was information that was previously  
25 acknowledged and publicly disclosed by Intel, but the

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Summation - Mr. Brodsky

1 \$1 billion was secret information that was not disclosed that  
2 was non-public.

3 Then the defendant says, "You get 10 percent of the  
4 new entity, right?" That was the 10 percent Goel told him  
5 about, that was Intel's 10 percent of the deal in exchange for  
6 putting in \$1 billion. That gave the defendant an enormous  
7 advantage over every ordinary investor who didn't have these  
8 equity splits, who didn't know this information, because it  
9 wasn't public. Let's go to the next slide.

10 And then you can see as they continue, Goel told him  
11 the public will own 16 percent of the eventual entity, McCaw  
12 will own 5 percent and we will own, we, meaning Intel, will own  
13 10 percent. These are equity splits, equity splits meaning  
14 equity or ownership in the new company and these were the  
15 percentage splits or ownership splits of that new entity. All  
16 non-public information, not rumored, not where you can find  
17 anywhere, from somebody who actually knows. And why does  
18 Mr. Goel know? Because Mr. Viswanathan told you, Mr. Goel was  
19 a part of Intel Capital and part of his job was to oversee and  
20 review some of these deals and provide financial advice  
21 relating to these deals and Mr. Viswanathan talked to Mr. Goel  
22 about the deal.

23 Let's continue. Another part of the call, Mr. Goel  
24 tells him about the collar that was going to be put in place.  
25 It was 17 to \$20 he told Mr. Rajaratnam. It actually turned

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Summation - Mr. Brodsky

1 The mere existence of a deal in progress was a secret Goel  
2 wasn't allowed to confirm and here Goel was giving far more  
3 than that. He's giving title, chapter and verse to the  
4 defendant. Goel basically is becoming his corporate spy, his  
5 insider at Intel disclosing these secrets.

6 Now, how do you know the defendant traded based on  
7 Goel's information? You know it for a lot of reasons. I can't  
8 get through all of them, but there are three big ones. First,  
9 you know because defendant is spending a lot of time with Goel  
10 on the phone relating to this, talking about the details and  
11 doing the math. If this wasn't important information, he  
12 wouldn't be doing any of that. Second, you know because the  
13 first available trading day after Goel tells him about the  
14 details of the deal on March 20, 2008, the first next available  
15 trading day is not the next day, March 21, because the market  
16 was closed for Good Friday. Instead, it was the following  
17 Monday, March 24. And what happens? Not surprisingly, 12  
18 minutes after the markets opened on March 24, the defendant  
19 bought over 100,000 shares of Clearwire stock, that would be  
20 Exhibit 8. He bought on March 24, the first available day,  
21 over 100,000 shares of stock at twelve minutes after the market  
22 opened, and on the next day he bought more shares.

23 And, finally, how else do you know? How else do you  
24 know this was secret information? How else do you know it was  
25 important to the defendant? How else do you know that the

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Summation - Mr. Brodsky

1 defendant made trades based on it and not anything else? The  
2 reason you know is because there was a call after the Wall  
3 Street Journal issued an article, there was a call talking  
4 about speculation about the deal, there was a call between the  
5 defendant and his brother. And in that call is devastating  
6 evidence, clear as day, that the defendant purchased the  
7 Clearwire shares based on Goel's information and they're upset  
8 during this call. Remember, they're both upset. Why are they  
9 upset? Because the article came out and they couldn't get  
10 enough stock in based on Goel's information before the article  
11 came out.

12 Now, let's go to part of the trip, this is Government  
13 Exhibit 509T. Rengan is upset and they talk about, and some  
14 not-so-nice language about how they're very upset that it hit  
15 the Wall Street Journal and they call it the Clearwire stock.  
16 You know what's very interesting about this? They actually  
17 disclose in this call, they actually disclose how much they  
18 know based on Goel's information that nobody else even knows.

19 Let's go to the next slide. Rengan says, "they're  
20 short on details." Why is the Wall Street Journal short on  
21 details? The Wall Street Journal doesn't know that Intel's  
22 board approved the deal. Rajaratnam does from Goel. The Wall  
23 Street Journal doesn't know the equity splits and that's  
24 actually something Rengan says, "they don't have the equity  
25 split." Equity split is incredibly important. That tells you

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Summation - Mr. Brodsky

1 how much each is investing in the deal and the percentage of  
2 ownership. That's the basis on which you can make a trade, as  
3 to how much the company is going to be valued. Wall Street  
4 Journal doesn't have any of that. But they do.

5 How do you know? The wire shows that he got it from  
6 Goel. Here's the critical admission right after that. Rengan  
7 says, "I don't know how much you got in today, but I think it's  
8 going to rip tomorrow." And you know that on March 24 and  
9 March 25 before this article came out in the Wall Street  
10 Journal speculating about the deal, but not really having the  
11 equity split details, not having Intel's board approval that  
12 they think the stock is going to go up as a result of  
13 speculation on this article and Rengan wants to know how much  
14 did you get in, did you get in enough stock so we could make a  
15 lot of money? That tells you they were trading on Goel's  
16 information and not from any speculation out there.

17 Now, during the opening, the defense claimed, and we  
18 can put up the slide, defense opened and said in early March,  
19 remember the announcement date and, again, this is the defense  
20 opening. The defendant doesn't have any burden, they don't  
21 have to prove any facts, but they put on a case and the  
22 government always embraces and bears its burden and in this  
23 case we met our burden. Defense counsel said in opening, in  
24 early March -- remember the announcement date was May -- in  
25 early March 2008 Intel Capital itself held a public conference

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Summation - Mr. Brodsky

1 for investors and announced its interest in making an  
2 investment in the Clearwire joint venture at an analyst  
3 conference attended by Galleon and many other hedge funds and  
4 investors and analysts who worked for Raj attended the  
5 conference, Goel did not attend or participate in the  
6 conference. Transcript 91 line 7 to 15.

7 You heard Mr. Viswanathan. He's the one who spoke at  
8 the conference. He was on the witness stand. Mr. Lynam  
9 questioned him repeatedly. There was no disclosure at the  
10 analyst conference of the joint venture with Clearwire. There  
11 was no disclosure of that. Mr. Viswanathan told you that. We  
12 can take that down.

13 Also, you saw some documents that defense suggests in  
14 their case that one of the reasons why, through Mr. Schutte,  
15 they point to Mr. Rengan's trip to Washington, D.C. with a  
16 Galleon analyst as evidence there was work being done on  
17 Clearwire. There's two reasons why we know that trip to  
18 Washington, D.C. had nothing to do with the trades on March 24  
19 and March 25. You know it from the phone calls, you know it  
20 from Rengan's calls with Rajaratnam and you know it from the  
21 calls from Goel to the defendant, but you also know it from the  
22 documents the defense introduced, which is that the trades took  
23 place before the trip down to D.C. Let's even assume that  
24 Galleon had some analysis based on the Clearwire deal that  
25 didn't come from Goel. If the inside information, and I expect

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Summation - Mr. Brodsky

1 you'll hear this during the instructions, if the inside  
2 information from Goel was a factor in the defendant's decision  
3 to buy Clearwire stock, then he used the information. And from  
4 the tapes alone we know that's true.

5 Now, how else do you know the defendant engaged in  
6 insider trading, in the insider trading scheme with Goel? You  
7 know because Goel told you and his testimony is corroborated by  
8 the wire calls, the phone records, the timing of his calls with  
9 the defendant and in the subsequent trades, and here once again  
10 you heard two very different versions, night and day these  
11 versions, of the events relating to Goel and Mr. Rajaratnam.  
12 But in considering Mr. Goel's testimony think about his  
13 testimony and how it fits with all the other evidence in the  
14 case.

15 Let's take Mr. Goel's April 2007, the quarterly  
16 earnings information that he learned from Mr. Lenke and let's  
17 go through that as an example. Mr. Goel testified he tipped  
18 the defendant in April 2007 about Intel's quarterly earnings.  
19 He learned it, he said, from Mr. Lenke. Intel's quarterly  
20 earnings for any current quarter, as you know from witness  
21 after witness, is kept in very secret hands and the hands of  
22 very few people. Normally Mr. Goel didn't have access to that  
23 information, but this particular quarter he was able to get it  
24 from Mr. Lenke. And Mr. Lenke testified he gave to it  
25 Mr. Goel. Mr. Goel testified first he got the revenue and the

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Summation - Mr. Brodsky

1 gross margins and he kept contacting Mr. Lenke for more  
2 information. On Monday April 9 he was at Intel. Then he took  
3 a trip to the east coast, and we were able to have the  
4 telephone records showing Goel's contact with Mr. Lenke during  
5 that period of time.

6 Before Intel announced its earnings Goel got an update  
7 from Lenke about Intel's outlook. He got an update before the  
8 weekend on April 13, then he got a subsequent update on Monday,  
9 April 16. And Goel remembered on April 16 calling desperately,  
10 remember his testimony? He called desperately to try to reach  
11 out to Mr. Rajaratnam, because he knew the information changed  
12 from the first time he gave him a tip and it was in the  
13 opposite direction. So he wanted to get him the news.

14 And Mr. Rajaratnam, Mr. Goel testified, was in the  
15 Caribbean, and he told Mr. Rajaratnam about the update in the  
16 outlook. Now, that account fits squarely with the evidence in  
17 eight important ways. First, Mr. Lenke's testimony was  
18 completely consistent. Mr. Lenke took that stand and he  
19 disclosed, he said, he testified, he disclosed the non-public  
20 quarterly earnings to Goel before Intel announced it to the  
21 public. He said, Lenke said this, that he talked to him  
22 several times, he kept updating him and he testified that on  
23 the day before the earnings were announced on April 16, 2007 he  
24 remembered talking to Goel in that conference room and telling  
25 him the details of the business outlook and the financial

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Summation - Mr. Brodsky

1 numbers that Intel was going to report and then he said he told  
2 him, "You're now an insider, Mr. Goel." And he told him that  
3 because he knew he was revealing this very secret, very  
4 material, very non-public information and part of his job was  
5 to keep it within a very small circle.

6 Second, let's put up Government Exhibit 2. The  
7 telephone records show that Goel called Lenke when Goel was  
8 traveling on the east coast, which completely corroborates  
9 Goel's account of what happens. There were multiple calls back  
10 and forth between Goel starting on Tuesday, April 10 all the  
11 way through the Saturday, April 14. Why? Because Goel was on  
12 the east coast, remember, and he was talking on his cell phone  
13 with Mr. Lenke and Mr. Lenke was updating him as to what was  
14 going on.

15 Third, Mr. Lenke first learned about the bad revenue  
16 results on Monday, April 9. You saw some of the documents  
17 relating to that. Mr. Goel was at Intel that day. He hadn't  
18 yet traveled. You know that from his credit card records and  
19 you know that from his testimony. And he learned from  
20 Mr. Lenke the information about the revenue results not being  
21 good because, remember, he testified he learned about revenue  
22 and gross margin initially.

23 Fourth, April 9, 2007 the telephone and instant  
24 messages show that after Lenke got the information that the  
25 revenues were going to be significantly worse and told Goel,

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14KFRAJ2

Summation - Mr. Brodsky

1 Goel had five to ten -- there was testimony that Goel had five  
2 to ten conversations on April 9, 2007 with Mr. Lenke -- Goel  
3 called Mr. Rajaratnam from 10:15 in the morning to 10:18 in the  
4 morning on April 9, and 64 minutes later, Mr. Rajaratnam then  
5 shorts Intel. Shorting again, expecting bad news, bad news  
6 being the revenues. So Goel got the information from Lenke,  
7 passed it along to the defendant and the defendant 64 minutes  
8 later is making that short position of 1 million shares based  
9 on Goel's tip.

10 Fifth. Let's go to the next slide. April 13. Lenke  
11 then receives some good news. This is Lenke's testimony. He  
12 got some good news on gross margins. It was a very important  
13 driver, remember he said, of the company, gross margins drove  
14 the stock of the company. He got some very good news that he  
15 was going to get the final numbers coming on Monday. Goel got  
16 this information from Lenke on Friday, April 13, 2007.

17 Let's put up the next slide. Goel calls Lenke and  
18 your know he got the information. Lenke testifies he gave it  
19 to Goel, and you have phone records showing Goel called Lenke  
20 on from 3:11 to 3:21 p.m. What happens next? 3:21 p.m., as  
21 soon as Goel gets off the phone with Lenke, what does he do?  
22 That tells you everything right there. Goel called the  
23 defendant. He didn't waste a second, not a second. He called  
24 him immediately because he wanted to get him the news. What  
25 was the news? Things are looking a little bit better, things

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Summation - Mr. Brodsky

1 aren't so bad. I told you it was bad before, but things are  
2 getting a little bit better. That's a three-minute call with  
3 Rajaratnam.

4 How do you know the defendant then placed a trade  
5 based on that information that Goel got from Lenke? Watch what  
6 happens next. Five minutes later the defendant covers part of  
7 his short position. Five minutes after getting off the phone  
8 from Goel. Seconds after Goel gets off the phone from Lenke  
9 receiving the somewhat positive news. The timing is incredibly  
10 tight. It completely corroborates the account of Mr. Goel, it  
11 completely corroborates the account of Mr. Lenke and it's not a  
12 coincidence. It's compelling evidence that the defendant, what  
13 Mr. Goel learned from Mr. Lenke passed along to the defendant  
14 and the defendant acted on it.

15 Now, sixth, remember, Mr. Lenke testified he updated  
16 Goel with the details on Monday, April 16. That's when he got  
17 the great news, right? Mr. Lenke is sitting there in his  
18 office he got the great news, one week later, revenues were  
19 looking bad, but the great news is gross margin for the year,  
20 the business outlook is going to be very good, and he knows --  
21 Mr. Lenke, you heard from his testimony that so goes gross  
22 margin in the business outlook, so goes Intel's stock price.  
23 Gross margin prediction for the future, the business outlook  
24 goes up, Intel's stock price goes up. Gross margin for the  
25 future goes down, if the prediction goes down, the stock price

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Summation - Mr. Brodsky

1 drops. So this is good news and Mr. Lenke passes it to Goel in  
2 that conference room. And what do the telephone records show?  
3 Let's go to Government Exhibit 2, the summary chart. They  
4 corroborate completely Mr. Goel's testimony. Remember, he was  
5 desperately trying to get ahold of the defendant? Because this  
6 was now great news which was opposite of what he told him the  
7 week earlier and he wanted to get the news to him, so he called  
8 him at work, didn't get him, called him on his cell, didn't get  
9 him, called him at work, didn't get him. The defendant then  
10 starts calling him twice, they overlap at 12:50 p.m. One is  
11 calling the other because Mr. Goel repeatedly is calling the  
12 defendant's cell phone. And at 12:50 p.m. they connect for  
13 three minutes.

14 Goel tells him the news. Intel stock is going to go  
15 up. What does he tell him? He tells him gross revenue  
16 business outlook for the year is going to be good. And at  
17 1:44 p.m. while Mr. Rajaratnam is on the beach in the  
18 Caribbean, he calls his trader Horowitz at 1:44 p.m. And what  
19 happens next? Immediately the defendant switches his position,  
20 he covers the rest of his stock and he buys millions of shares,  
21 I believe over 2 million shares. We'll get to that in a  
22 moment.

23 How do you know Goel is telling the truth about the  
24 fact that the defendant was in the Caribbean? You know from  
25 the defendant's own phone records. Let's put that up. If we

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Summation - Mr. Brodsky

1 can blow that up a little bit. From the defendant's own phone  
2 records they reflect that he's in the Caribbean on April 15,  
3 which is the Sunday, and April 16, the Monday, 2007. So the  
4 defendant was in the Caribbean as reflected in the phone  
5 records. Now, seven, let's put up the slide on April 16, 2007,  
6 52 minutes after Goel tracks the defendant down and talks to  
7 him from 12:50 to 12:53, 52 minutes later the defendant buys  
8 Intel stock. He orders it from the Caribbean.

9 Now, this is a complete reversal of position. That  
10 day he buys 500,000 shares and the next day he buys 1.5 million  
11 shares and he reversed his position from going short on a dime  
12 because of one reason. Because Goel got the information from  
13 Lenke and Goel passed it to the defendant.

14 Eighth, what does the Intel press release show? The  
15 Intel press release shows positive outlook for the year 2007,  
16 which was good news for Intel and the stock went up, and you  
17 know as a result of Goel's tips the defendant within one week  
18 made over \$2 million in profits. A few phone calls, maybe,  
19 conservatively at most 30 minutes' worth of the defendant's  
20 time and the defendant made over \$2 million for his fund. Now,  
21 that may be an easy way to make money. Maybe that's the easy  
22 way to do it. You have an insider at a public company who  
23 tells you the inside information before the company reports it  
24 to the rest of the world. But it's not legal. And it's  
25 cheating. And it's cheating every ordinary investor who

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Summation - Mr. Brodsky

1 trading opposite of the Hans Mosesman report. Right?

2           What's the other problem with the story? Hans  
3 Mosesman is saying I think good things are going to happen with  
4 Intel because of the Centrino. Great. The Centrino. But the  
5 news about the Centrino is old. By the time of April 9 the  
6 news had already come out that the Santa Rosa Centrino was  
7 going to come out in May. So it's even more complicated.  
8 Let's put that up. You see how Intel issues some press  
9 releases on the Centrino. Intel actually issues a press  
10 release, the first one on March 16, 2007. Do you see any  
11 trading by Mr. Rajaratnam? Now, this was probably discussed at  
12 the morning meetings, according to Mr. Schutte, as all events  
13 are discussed at the morning meetings, but there's absolutely  
14 no trading by the defendant on March 16 or anywhere near  
15 March 16, 2007 when Intel talks about the Centrino Santa Rosa  
16 is going to be coming out in May.

17           Then there's another press release by Intel, if that  
18 weren't enough, on April 4, 2007, five days before this  
19 Mosesman report and there's absolutely no trading by the  
20 defendant. He wasn't trading based on the Mosesman report. He  
21 wasn't trading based on the Investor Business Daily relying on  
22 the Mosesman report of a week earlier, he wasn't trading on any  
23 of these Intel press releases. He was trading, as you know  
24 from the phone records and trading records and the testimony,  
25 he was trading on illegal tips from Mr. Goel.

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Summation - Mr. Brodsky

1 Let's go to April 16. On April 16, the defense case  
2 is, on April 16 some Beijing Intel investor conference is  
3 taking place, basically announcing that some new product was  
4 going to come out. Halfway around the world, the defendant is  
5 in the Caribbean. There's an investor conference being held in  
6 Beijing on April 16, and the defense story is he's trading on  
7 some new product that is being announced when there's  
8 absolutely no research at Galleon talking about it.

9 Now, the analyst at the time who was covering Intel  
10 was Nadeem Janmohamed, and you know from the evidence the  
11 defendant didn't think very much of that analyst. Does it make  
12 any sense the defendant was sitting in the Caribbean on  
13 April 16, 2007 and trading this on a Beijing conference going  
14 on halfway around the world about some new product that was  
15 about to come out when there's absolutely no internal Galleon  
16 research? Or does it make more sense Lenke tipped Goel and  
17 Goel provided the information to the defendant and the  
18 defendant traded on it?

19 Let's put that up. You got the call on April 9, 2007  
20 from Goel to Raj Rajaratnam, and Goel had information that  
21 Intel was going to have bad earnings. What does Mr. Rajaratnam  
22 do? He shorts the position. Friday April 13, you have the  
23 call exactly to the second between Goel and Lenke and then Goel  
24 to Mr. Rajaratnam and within an hour Mr. Rajaratnam covering  
25 part of his short position because the news is not so bad. And

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Summation - Mr. Brodsky

1 then on April 16 you got the call from Goel to Mr. Rajaratnam  
2 finding him in the Caribbean and within an hour Mr. Rajaratnam  
3 reversing position buying 500,000 shares and then 1.5 million  
4 the next day. Which story is more consistent with the trading  
5 records, the phone records and all the other evidence of the  
6 case? It's clear Mr. Goel tipped Mr. Rajaratnam. It's clear  
7 he's the one who gave him the inside information about the  
8 Intel quarterly earnings. And it's clear that's why the  
9 defendant traded.

10 Now, let's move off a little bit from Intel and talk a  
11 little bit about People Support.

12 THE COURT: If this is a good place to break, Mr.  
13 Brodsky, we'll take our morning break.

14 MR. BRODSKY: Thank you, your Honor.

15 (Recess)

16 (In open court; jury not present)

17 THE COURT: Mr. Dowd, do you want a sidebar?

18 MR. DOWD: Yes, please.

19 (Continued on next page)

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14KFRAJ2

Summation - Mr. Brodsky

1 (At the side bar)

[REDACTED]

1 (In open court; jury present)

2 THE COURT: Mr. Brodsky, would you continue?

3 MR. BRODSKY: Thank you, your Honor.

4 What did the evidence show about the defendant's  
5 trading in People Support stock in Mr. Goel's Charles Schwab  
6 account? The defendant traded People Support in Mr. Goel's  
7 Charles Schwab brokerage account, logging on, putting in  
8 Mr. Goel's password, putting in Mr. Goel's identification based  
9 on material non-public information that the defendant learned  
10 from his Galleon designee on the board of directors of People  
11 Support. Galleon had a designee on the board, as you know,  
12 because Galleon had bought up a lot of People Support stock and  
13 at some point there was a negotiation and agreement reached  
14 between People Support and Galleon, which Galleon was allowed  
15 and permitted to have a board member on People Support's board  
16 of directors. And in exchange galleon was not allowed to  
17 continue to purchase shares in People Support.

18 Now, they reached this agreement and there's nothing  
19 wrong with Galleon owning a large amount of stock in a company.  
20 Nothing wrong with that. And there's nothing wrong with  
21 Galleon having a member on People Support's board of directors.  
22 But what the defendant was not allowed to do, what's clear is  
23 he wasn't allowed to take advantage of the material non-public  
24 information, the secret information that his designee on the  
25 board of People Support was learning while sitting on that

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Summation - Mr. Brodsky

1 board. The CEO Lance Rosenzweig testified, and it is very  
2 clear that what you learn on the board about a potential  
3 acquisition is material non-public information. It was  
4 information that the public didn't know about, it was  
5 information that wasn't available to the public, and it was  
6 very significant to the company. Leakage or disclosure by a  
7 board member on the People Support board of directors to  
8 someone else regarding the acquisition of the company clearly  
9 was not permitted. testified that if he got the information  
10 because he had a Galleon designee on the board couldn't trade  
11 in the stock and he couldn't provide to other people to trade.  
12 And once again the defendant acted as if the rules didn't apply  
13 to him. In June and July of 2008 you know that People Support  
14 was in discussions with the Ruias family about the Ruias,  
15 through their conglomerate either called the SR Group or Aegis  
16 was interested in acquiring People Support. So in June and  
17 July of 2008 there were serious negotiations between People  
18 Support and the Ruias family for the Ruias family to acquire  
19 People Support. You remember this document, it's Government  
20 Exhibit 1106, and this document was dated June 30, 2008 and it  
21 was from People Support to Krish Panu. Krish Panu was the  
22 Galleon designee. He was the employee if you remember who Mr.  
23 Rajaratnam brought to Galleon and he was on that phone call  
24 about the e-mail trail creating the e-mail trail. Panu  
25 receives this on June 30 of 2008, and it attaches a Credit

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Summation - Mr. Brodsky

1 Suisse presentation of the Ruias offer outlining the details of  
2 it. That's Government Exhibit 1107R. Let's put that up.  
3 Let's go to page 1, you remember on page 1 it just had the  
4 presentation on the first page of Credit Suisse giving a  
5 presentation to the board regarding the Ruias offer. And it  
6 was called project Easter, because as you know from this trial,  
7 the information is so secret that even within the investment  
8 banks, even at companies, they used code names to desperately  
9 describe the deals to describe a company, why did they do that?  
10 You heard why they do it. Just in case they had the document  
11 out in public or just in case somebody loses the document.  
12 Just in case somebody is overlooking their shoulder, they can't  
13 identify who the company is. That's how secret it is. So they  
14 use these code names and this code name was project Easter.  
15 And so that's June 30 of 2008. Let's skip to page 17.

16 Now, Peter Phan testified that the defendant, he got  
17 the information because he had a Galleon designee on the board,  
18 he couldn't trade in the stock and he couldn't provide it to  
19 other people to trade. Yet once again, the defendant acted as  
20 if the rules didn't apply to him.

21 We know in June and July of 2008 that People Support  
22 was in discussions with the Ruias family about the Ruias  
23 through their conglomerate either called the Essar Group or  
24 Aegis was interested in acquiring PeopleSupport. So in June  
25 and July of 2008 there were serious negotiations between

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Summation - Mr. Brodsky

1 PeopleSupport and the Ruias family for the Ruias family to  
2 acquire PeopleSupport. You remember this document, it's  
3 Government Exhibit 1106, and this document was dated June 30,  
4 2008 and it was from PeopleSupport to Krish Panu. Krish Panu  
5 was the Galleon designee. He was the employee if you remember  
6 who Mr. Rajaratnam brought to Galleon and he was on that phone  
7 call about the e-mail trail creating the e-mail trail. Panu  
8 receives this on June 30 of 2008, and it attaches a Credit  
9 Suisse presentation of the Ruias offer outlining the details of  
10 it. That's Government Exhibit 1107R. Let's put that up.  
11 Let's go to page 1. You remember on page 1 it just had the  
12 presentation on the first page of Credit Suisse giving a  
13 presentation to the board regarding the Ruias offer. And it  
14 was called Project Easter, because as you know from this trial,  
15 the information is so secret that even within the investment  
16 banks, even at companies, they used code names to describe the  
17 deals, to describe a company. Why did they do that? You heard  
18 why they do it. Just in case they had the document out in  
19 public or just in case somebody loses the document. Just in  
20 case somebody is overlooking their shoulder, they can't  
21 identify who the company is. That's how secret it is. So they  
22 use these code names and this code name was Project Easter.  
23 And so that's June 30 of 2008. Let's skip to page 17.

24 On June 30 of 2008, Mr. Panu is getting the  
25 information about what E's offer overture is, E is the Essar

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Summation - Mr. Brodsky

1 Group, that was the code name for Essar Group. E's overture to  
2 P, that would be People Support and this was general  
3 description of the offer as of June 30, 2008. Then if we go to  
4 page 19, you remember this described how the Ruias family, if  
5 we can blow up Key Management, the Ruias family is the ones  
6 controlling Essar Group, the ones controlling Aegis, who were  
7 making this offer. It's clear Panu was getting updates about  
8 the acquisition by the Essar Group, by the Ruias family through  
9 this board meeting and conversations with Mr. Rosenzweig and  
10 you saw that through the minutes we introduced in June 2008 and  
11 in July 2008, the board was constantly meeting and they were  
12 receiving updates about the negotiations between the Ruias  
13 family and People Support and Mr. Panu was getting all of these  
14 updates. And you heard Mr. Rosenzweig testify that this  
15 information the discussions with the Ruias family were secret  
16 and Mr. Rajaratnam could not trade using any of that  
17 information.

18 Now, the evidence shows, however, that he did just  
19 that. He purchased People Support stock in Mr. Goel's Charles  
20 Schwab account on July 2, 2008, long after, at least a month  
21 after the serious discussions and negotiations began between  
22 the Ruias family and People Support on the acquisition of  
23 People Support. And then he did it again on July 28, 2008.

24 Now, there doesn't seem to be any serious dispute that  
25 Mr. Rajaratnam is the one who actually purchased the People

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14KFRAJ2

Summation - Mr. Brodsky

1 Support stock in Mr. Goel's account and there doesn't seem to  
2 be any serious dispute that Mr. Rajaratnam and nobody at  
3 Galleon was allowed to buy People Support stock at Galleon. So  
4 right there and then Mr. Rajaratnam is doing something he's not  
5 supposed to be doing. Now, how do you know he purchased those  
6 shares in Mr. Goel's account based on inside information? You  
7 know it because Mr. Goel told you first he told him that;  
8 Mr. Goel said Mr. Rajaratnam had told him he was buying the  
9 stock in July of 2008, based on the Ruias family making an  
10 acquisition of People Support, and he told you that prior to  
11 July 30 of 2008, that wire call. Now, we'll get to the wire  
12 call in a second.

13 You know this is true because on the wire call, which  
14 we'll display in one moment, Mr. Rajaratnam tells Goel that on  
15 July 30 of 2008 the Ruias family is making a firm bid for  
16 \$12.25 for People Support stock. And if you look at that call  
17 and you listen to that call, you'll remember that it wasn't a  
18 surprise, it wasn't like Goel didn't understand what he was  
19 talking about. Goel understood completely what he was talking  
20 about, because they had talked about it before that call,  
21 before that call took place is when Mr. Rajaratnam had  
22 purchased the shares and before that call took place is when  
23 Mr. Rajaratnam knew the Ruias were going to make the  
24 acquisition of People Support and the basis for his trades.

25 Now, let's go and look at the tape. This is July 30,

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Summation - Mr. Brodsky

1 2008, six days before People Support issues its public  
2 announcement that it's going to be acquired by the Ruias  
3 family. 539T, let's go to the next page. This was a part of  
4 the transcript, part of the call 539T in which Rajaratnam said,  
5 "So the Ruias made a firm bid now." That's how it begins. Now  
6 you know from the very beginning when a conversation occurs if  
7 one party says, "Oh, so the Ruias made a firm bid now," that  
8 was not the start of their conversation about how the Ruias  
9 were going to acquire People Support. They talked about it  
10 long before this and you know that from the very call itself.  
11 Otherwise it doesn't make sense.

12 And Mr. Goel doesn't respond, "Oh, so, who are the  
13 Ruias? What are they doing? What are you talking about? Does  
14 this relate to People Support? I don't understand." He  
15 understands completely because before this call they talked  
16 about it, and they talked about how Mr. Rajaratnam traded in  
17 Mr. Goel's account based on this information.

18 And Mr. Rajaratnam says "at 12.25," and Mr. Goel  
19 doesn't respond, "I don't know what you're talking about.  
20 1225? Is it 1225 per share? What are you talking about? Does  
21 this relate to some other stock?" He knows exactly what he's  
22 talking about, because they had talked about it before. Mr.  
23 Goel says, "Oh, wonderful, wonderful. Thanks."

24 And Mr. Rajaratnam says, "Not bad, huh?"

25 And Mr. Goel says, "Very good, very good. Thanks."

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14KFRAJ2

Summation - Mr. Brodsky

1 What's that the thanks for? That's for thanks for placing a  
2 Galleon TCM trade in my brokerage account because you have  
3 inside information that the Ruias family is going to take over  
4 People Support and when that happens at 12.25 per share, the  
5 stock is going to rise and you're going to make some money for  
6 me in my brokerage account. And that's exactly what happens.

7 Now, this is clearly confidential information. Both  
8 Mr. Rosenzweig and Mr. Khan testified that this was clearly  
9 confidential information. This is the exact amount, the dollar  
10 amount of People Support being acquired per share, 12.25. So  
11 you know from this very call that the defendant is getting  
12 updates from Mr. Panu about what's happening in the deal.

13 If we go to Government Exhibit 1117. This was the  
14 announcement six days later on August 4, 2008 in which People  
15 Support says Essar Services is going to acquire it through  
16 Aegis, the subsidiary, this is the Ruias family, and it's 12.25  
17 per share. That's exactly six days earlier Mr. Rajaratnam  
18 disclosing the firm bid. But Mr. Rajaratnam knows because he's  
19 getting the information from Mr. Panu and he's getting the  
20 updates and making trades in Mr. Goel's account based on that.

21 Now, there's no other rational explanation for this  
22 conversation. Again, the government bears the burden, and we  
23 embrace the burden of proving the defendant is guilty beyond a  
24 reasonable doubt and we've proven it. But through  
25 cross-examination Mr. Rajaratnam's counsel seemed to suggest

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Summation - Mr. Brodsky

1 that the Ruias family had not made a firm bid to buy People  
2 Support until after Mr. Rajaratnam had actually purchased the  
3 shares in Goel's brokerage account, and therefore  
4 Mr. Rajaratnam's purchases were not based on inside  
5 information.

6 That argument makes absolutely no sense. First, it  
7 concedes, as is patently obvious and clear from the recorded  
8 conversation, that the defendant knew material non-public  
9 information that the Ruias were going to acquire People  
10 Support. There's not a speck, not a speck of public  
11 speculation or rumor or anything out there that the Ruias  
12 family is going to take over People Support.

13 (Continued next page)

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14K8RAJ3

Summation - Mr. Brodsky

1 Let's put up Government Exhibit 1120.

2 Now, that was bad news. If you remember, it sent the  
3 stock spiraling down over \$2.50 a share. Why did it do that?  
4 This was a very tense time in the market. This is the biggest  
5 financial collapse taking place in history since the Great  
6 Depression in the United States in the late 30s. And here we  
7 are, a company issues a press release saying they are going to  
8 delay the closing of the transaction and people in the public  
9 are nervous about that. There is a delay of the transaction at  
10 a time of financial crisis. That's a signal to the market from  
11 this press release that this transaction may not occur. And  
12 the market panics and clearly the stock spirals down. That's  
13 the morning of October 7. That was very bad news.

14 Then if we put up Government Exhibit 120, you see how  
15 the stock dropped on this news. But during that same day, the  
16 defendant learned PeopleSupport was working out a deal with the  
17 Ruias to speed up the closing and to make the announcement  
18 about it after the market closed.

19 Let's put up Government Exhibit 17. And you will see  
20 a call at 12:27 p.m., between Krish Panu and Galleon for 10  
21 minutes. That's 12:27 p.m. on that day, Panu is calling  
22 Galleon's New York office and he is talking to Raj Rajaratnam.  
23 And he is telling him, because Panu knows, because Panu is on  
24 PeopleSupport's board, he is telling him the deal is actually  
25 going to close, something that's not generally available in the

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14K8RAJ3

Summation - Mr. Brodsky

1 marketplace. And he is telling him they are going to issue a  
2 press release later in the day, they are working out the  
3 arrangements, things look good, and what happens? You know  
4 that within an hour, a little bit more than an hour, at 1:42  
5 p.m. on October 7, 2008, Rajaratnam calls Goel, and you know  
6 exactly what he had done. Rajaratnam learned that the  
7 transaction was going to take place, that the market reaction  
8 was going to bounce back because a press release was going to  
9 be issued and the press release was going to say things are  
10 better again, the transaction will close.

11 Let's go to the tape and take a look at what he says.  
12 He tells Goel during this tape that, "We know because one of  
13 our guys is on the board." How can Mr. Rajaratnam be more  
14 clear as to where he is getting the information from that  
15 PeopleSupport is going to come out with good news after the bad  
16 news? You couldn't get more clearer than that. "We know  
17 because one of our guys is on the board."

18 Then he says, "We know they are going to put \$41  
19 million in escrow." Now, they eventually don't put \$41 million  
20 in escrow, but why is that number important? You heard  
21 Mr. Rosenzweig testify they were talking about an escrow, and  
22 they were talking about that ballpark amount of money. How  
23 does Mr. Rajaratnam know that? He knows that because he got  
24 that update from Panu. That's a detail that he learned from  
25 Panu about how the deal was going, and that's material

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14K8RAJ3

Summation - Mr. Brodsky

1 He thought it was an opportunity to buy because it was  
2 guaranteed to make money. Why was it guaranteed to make money?  
3 Because unlike everybody else in the marketplace, he had access  
4 to a guy on the board of directors who was telling him what was  
5 going on in those secret meetings and what was taking place  
6 inside the board. And unlike everybody else in the  
7 marketplace, who was nervous about the financial collapse and  
8 worried about what was going to happen to PeopleSupport not  
9 being acquired, Mr. Rajaratnam wasn't worried at all because he  
10 thought it was an opportunity to buy for Goel and make a  
11 guaranteed amount of money. And that's exactly what happened.

12 Now, you know the information was actually secret  
13 because right after the market closed, after he purchased  
14 shares from Mr. Goel in that account during that call, right  
15 after the market closed, the stock bounced right back.

16 Let's put up Government Exhibit 1121. After the  
17 market closed, PeopleSupport then issued this press release,  
18 calming the markets. This press release, after the market  
19 closed on October 7, after Mr. Rajaratnam had purchased the  
20 shares in Goel's account, calmed the markets because it said,  
21 basically, closing is going to get done. We have worked out  
22 details. The transaction will get done. The stock price then  
23 bounces back the very next day. And because of that -- let's  
24 take a look at Government Exhibit 19 -- what does the defendant  
25 make in Mr. Goel's account in a matter of minutes by logging on

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Summation - Mr. Brodsky

1 to Mr. Goel's account? Nearly \$50,000 in a matter of minutes,  
2 because he had an insider on the board of directors, unlike  
3 anybody else, who was telling him what was going on, and he  
4 made a guaranteed \$50,000 for his friend in minutes.

5 Now, why did Mr. Rajaratnam make these illegal trades  
6 in PeopleSupport for Goel? You know he had done it before,  
7 right? You know he had done it with Hilton in 2007, which we  
8 will get to a little bit later. You know he had done it with  
9 @Road when he got tipped by his friend who was the CEO of  
10 @Road. So he had done this before in Mr. Goel's account, and  
11 you know from 2005 to 2009 he had made him over \$700,000 in  
12 Mr. Goel's Charles Schwab account. Why did he do it? Why did  
13 he take this inside information and make those trades in his  
14 friend's account? Because Goel was a friend, undoubtedly, and  
15 because he wanted Goel to return the favor. He wanted Goel to  
16 continue to provide him with inside information. By this point  
17 Goel had provided him with good inside information on Clearwire  
18 and good inside information about Intel's quarterly earnings  
19 from Mr. Lenke, and that was a source who can continue to  
20 provide him with good inside information.

21 Now, you know what happened eventually, right? You  
22 heard Mr. Goel testify about it. Mr. Rajaratnam kept asking  
23 for inside information. And then at one point he berated him,  
24 he got angry with Mr. Goel, and he yelled at him for not  
25 getting access to the inside information, for not returning the

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14K8RAJ3 Summation - Mr. Brodsky

1 favor. Mr. Goel testified he was very hurt by that. By that  
2 point that was the relationship. Mr. Rajaratnam expected Goel  
3 to get him inside information.

4 Now, to summarize the conspiracy between Mr. Goel and  
5 Mr. Rajaratnam, you have the wire calls, where Goel gives the  
6 defendant inside information about Clearwire. You have the  
7 testimony of Sriram Viswanathan. You have the testimony of  
8 Alex Lenke. You have phone records and trading records  
9 corroborating everything Mr. Goel testified about. You have  
10 the wire calls about PeopleSupport. You have the documents  
11 reflecting Panu had the inside information. And you have the  
12 trading records and the wire call. You know he is guilty of  
13 conspiring with Goel to trade based on inside information, and  
14 you know it from all of that evidence, and that he actually  
15 traded Intel stock based on inside information in April 2007  
16 based on inside information from Goel, and the defendant traded  
17 Clearwire based on inside information from Mr. Goel on March 24  
18 and 25, 2008. And you also know that Mr. Rajaratnam breached  
19 his duty to PeopleSupport by taking the inside information from  
20 his Galleon designee, and then making those trades and  
21 \$150,000, approximately, in Mr. Goel's account.

22 Let's now turn to Mr. Rajaratnam's scheme with other  
23 Galleon employees. This is basically the third of the five  
24 schemes, and this is basically the conspiracy between the  
25 defendant and some of his most trusted employees at Galleon.

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Summation - Mr. Brodsky

1 What is that scheme? The scheme is basically to go out, get  
2 inside information, bring it back to Galleon, make trades, and  
3 get rich together. That's the scheme. And how do you know the  
4 defendant entered into this unlawful scheme with other Galleon  
5 employees to get the inside information and trade based on it?  
6 You know because, once again, you heard the powerful evidence  
7 directly from the defendant's own voice and his conversations  
8 with other Galleon employees in their own words scheming to get  
9 the inside information, getting it, and then covering it up.

10 Let's start with the defendant's brother, Rengan  
11 Rajaratnam. He worked at Galleon. And you know he was  
12 involved with his brother in getting inside information. There  
13 is Government Exhibit 509T from March 21, 2008, where you heard  
14 Rengan and the defendant upset because they didn't get enough  
15 Clearwire stock in before the Wall Street Journal article  
16 speculated about what might happen. That clearly showed you  
17 during that conversation that when Goel gave the equity splits  
18 information and other inside information about the Clearwire  
19 deal to the defendant, the defendant had told Rengan, because  
20 Rengan on that call says, the Wall Street Journal doesn't have  
21 the equity splits, they don't have all the details we have.

22 Now, that's not all. You also have that tape that we  
23 talked about earlier today, Government Exhibit 559, the August  
24 15, 2008 tape, in which Kumar tells the defendant AMD and  
25 Mubadala have shaken hands. You have on that call -- after

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Summation - Mr. Brodsky

1 Kumar tells the defendant, that's Government Exhibit 553, I  
2 believe, Government Exhibit 559 is a subsequent call in which  
3 the defendant tells Rengan exactly what he learned, that they  
4 had shaken hands on the deal, and he was buying some AMD stock  
5 for Rengan based on that illegal tip.

6 So all of that is great evidence that Rengan was  
7 involved in the conspiracy to go out and get inside  
8 information, and actually got inside information or exchanged  
9 inside information with the defendant, and then he trades based  
10 on it. But what are the three very, very important calls that  
11 we should talk about? It's 562, 563 and 565. These are three  
12 calls between the defendant and his brother, and as plain as  
13 day, as blatant as you can get and as brazen as you can get,  
14 they talk about trying to get inside information out of the  
15 McKinsey consultant, not Mr. Kumar but another person. And  
16 that other McKinsey consultant, who was a protege of Mr. Kumar,  
17 they talk about the steps Rengan took to corrupt that McKinsey  
18 consultant.

19 562T. Let's start with that. This call starts out  
20 with Rengan, stating that he just met this young McKinsey  
21 consultant, who had just made partner, someone who worked for  
22 Kumar. And during that call, Rengan describes how this young  
23 McKinsey consultant told him to buy AMD stock and the stock was  
24 going to rip. Now, that gave Rengan the view, as he describes  
25 in that call, that this consultant just told him on this call

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Summation - Mr. Brodsky

1 that the stock of AMD is going to go up in value. And that  
2 gave Rengan the signal and maybe this person is wrong to  
3 provide them with inside information.

4 So on the next call that he has 563, we are going to  
5 play this call, listen very carefully to this call. This is  
6 Rengan calling the defendant back, and listen to how the words  
7 between the defendant and his brother about their plot to  
8 corrupt this McKinsey consultant. This is an important call.  
9 It gives you a real window into what the defendant did with  
10 Kumar, and it gives you a real window into his mind set and  
11 state of mind about trying to get inside information.

12 (Audiotape played)

13 MR. BRODSKY: What does that exchange tell you? Well,  
14 let's go over that.

15 You heard Rengan tell him that there was this McKinsey  
16 consultant who worked for Kumar who mentioned AMD and how AMD  
17 stock is going to do well. And you heard Mr. Rajaratnam say,  
18 "What we want to do is get him. We want to be able to chat  
19 with him." Meaning they want to be able to get inside  
20 information out of him. How do you know that? Because the  
21 very next words Mr. Rajaratnam tells you that. He says to  
22 Rengan, "If he is a little dirty." "If he is a little dirty."  
23 That tells you right there the defendant's mind set. They are  
24 going to be able to chat with this McKinsey consultant "if he  
25 is a little dirty." What does that mean? It means if the

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Summation - Mr. Brodsky

1 consultant is willing to give them inside information, then  
2 they are going to have a good relationship with him.

3 Now, how do you know that's true? Because Rengan  
4 talks about during the call the problem that the consultant  
5 says is all my best ideas are inside information. They  
6 actually use those words, "inside information." And there is  
7 no better proof that that's what the defendant and his brother  
8 want.

9 Later in the conversation Rengan said that he jokingly  
10 suggested that they hire the consultant's wife to work as a  
11 consultant for Galleon. You know why, right? You pay the  
12 consultant's wife the money because it won't be in the  
13 consultant's name. The same way they were able to pay Kumar in  
14 this fictitious account name out in the offshore, they are able  
15 to pay this consultant's wife, and therefore cover up the fact  
16 that they are paying money to this consultant.

17 Rengan then said, after he said he jokingly suggested  
18 it, that the guy was thinking about playing ball. And that  
19 pleased them both. Why? Because they were talking about doing  
20 what Mr. Rajaratnam did to Kumar, bribing this consultant,  
21 through payments to the wife, to get inside information.

22 Now, it's what Smith testified they did with  
23 Tomlinson, that they paid this guy Tomlinson from Intel because  
24 he was going to give them the quarterly earnings, but Tomlinson  
25 didn't get the money in his own name, he got it in some other

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Summation - Mr. Brodsky

1 name called Conexion. Well, this was business as usual. How  
2 did the defendant react when Rengan was proposing to do this,  
3 and when they were talking about whether the consultant is a  
4 little dirty? The defendant didn't say, Stop this nonsense, we  
5 are not paying people for inside information, we are going to  
6 rely on our internal research. That's not what he said. He  
7 said on the call, Yeah, OK.

8 Now, within the hour, Rengan and the defendant  
9 continue their discussion, and let's play this call. It's  
10 565TR. The backdrop to this call is that Rengan was concerned  
11 that Anil Kumar was upset that here they were trying to corrupt  
12 and get this McKinsey consultant, who was a protege of Kumar,  
13 involved in this dirty business of getting inside information,  
14 and Rengan was concerned Anil Kumar was going to get upset by  
15 that.

16 (Audiotape played)

17 MR. BRODSKY: You heard on that call Rengan say, "I  
18 was just using that as an excuse to pump information out of my  
19 friend." Translation: I was trying to get inside information  
20 from this McKinsey consultant. And he is concerned whether  
21 Kumar was bothered by this. And Mr. Rajaratnam says, no, he  
22 wasn't bothered by it.

23 And Mr. Rajaratnam doesn't say in response to Rengan  
24 saying this, You shouldn't do that, what are you trying to do?  
25 He says, "I understand what you're doing." And of course he

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Summation - Mr. Brodsky

1 understood what Rengan was doing because that's exactly what  
2 the defendant had done with Kumar.

3 Now, how could this not be more clear. At the end of  
4 the conversation, Rengan says, "Scumbag, everybody is a scum  
5 bag." Meaning, to use the defendant's own words in the prior  
6 conversation, everybody is dirty, they are willing to give up  
7 this inside information. And you hear laughter between the two  
8 of them. But this is not a joke. What you heard were the  
9 defendant and his brother falling victim to greed, and they  
10 thought everybody else would as well.

11 Now, there is no other rational explanation for this  
12 call. There is nothing about Galleon expert research, news,  
13 analysis, or anything like that. This was part of a conspiracy  
14 to go out and get inside information, and you heard them  
15 plotting to do it on that very call, those three calls.

16 Now, who else was part of this Galleon conspiracy with  
17 the defendant? We won't review it again, but Government  
18 Exhibit 524TR was that call between the defendant, Chellam and  
19 Panu where they talk about that e-mail trail because Kumar had  
20 given them that illegal tip of Spansion. And how else do you  
21 know there was this Galleon conspiracy? Because of the  
22 powerful and devastating evidence that Rajaratnam traded  
23 Goldman Sachs stock based on inside information.

24 Now, who gave the defendant inside information about  
25 Goldman that the defendant then shared with others at Galleon?

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Summation - Mr. Brodsky

1 Rajat Gupta, at the pinnacle of power, sitting on one of the  
2 most prestigious boards of directors in the world, the board of  
3 Goldman Sachs. And you know board members have strict duties  
4 not to disclose confidential discussions taking place at the  
5 board meetings until the company publicly announces it. You  
6 heard that from Mr. Blankfein, who is the CEO of Goldman Sachs.  
7 You also heard it from Mr. Rosenzweig who is the CEO of  
8 PeopleSupport.

9 Now, how do you know Mr. Gupta breached his duties and  
10 disclosed material nonpublic information to the defendant about  
11 Goldman's business? Because you heard him actually do it on a  
12 call. In a July 2008 call, between Gupta and Rajaratnam, Gupta  
13 didn't hesitate for a moment in telling the defendant about  
14 what happened at a Goldman board meeting and about confidential  
15 information regarding Goldman's strategic plans. It's  
16 Government Exhibit 534TR. Remember, before this call, Goldman  
17 Sachs had had a board meeting. This is weeks earlier. And  
18 during that board meeting, as Mr. Blankfein explained, they  
19 discussed strategic plans. What was Goldman going to do? And  
20 one of the strategic plans they discussed was whether Goldman  
21 was going to acquire a commercial bank or an insurance company.

22 Now, let's take a look at the transcript of a portion  
23 of the conversation between Mr. Gupta and Mr. Rajaratnam in  
24 534TR.

25 This portion of the transcript of that call, Mr.

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Summation - Mr. Brodsky

1 Rajaratnam says, "There's a rumor that Goldman might look to  
2 buy a commercial bank. You know? And you know this guy Bob  
3 Steele, who was a senior guy at Goldman was under secretary."

4 Mr. Gupta says, "At Wachovia."

5 Mr. Rajaratnam says, "At Paulson and went to Wachovia  
6 and they have a large demand."

7 So they are talking about this rumor that Goldman  
8 might buy a commercial bank.

9 Mr. Rajaratnam then says, and here is the key, he  
10 asks, "Have you heard anything along that line?"

11 And Mr. Gupta, who is on the board of directors of  
12 Goldman Sachs, doesn't hesitate. He doesn't say in response to  
13 this question: What are you talking about? You want me to  
14 talk about Goldman Sachs board meeting? You want me to reveal  
15 confidential information? I am a board member. I can't talk  
16 about what Goldman Sachs' strategic plans are. No. What he  
17 says in response is, "Yeah. This was a big discussion at the  
18 board meeting."

19 Mr. Rajaratnam says, "Uh-hum."

20 Mr. Gupta then goes on to describe some of the  
21 discussion, which we will go into.

22 That reaction and that response by Mr. Rajaratnam  
23 tells you right there this was business as usual between these  
24 two. This wasn't the first time Mr. Gupta was asked about what  
25 was going on at Goldman. And this wasn't the first time that

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Summation - Mr. Brodsky

1 Mr. Gupta was disclosing what was going on at Goldman. This is  
2 Mr. Rajaratnam asking for confirmation of a rumor. And why is  
3 he asking for confirmation of a rumor? Because a rumor isn't  
4 good enough to trade on. You don't trade on a rumor that  
5 Goldman might buy a commercial bank. What you do is you go to  
6 the insider, the guy on the board of directors. You don't  
7 trade based on a Fly on a Wall report that basically says, hey,  
8 there's rumors out there Goldman might buy a commercial bank.  
9 You trade based on the real fly on the wall, who is in the  
10 board room meeting at Goldman, who knows exactly what Goldman  
11 is going to do. Rajat Gupta. And that is who Mr. Rajaratnam  
12 went to to find out what really is going on. And what you hear  
13 is that Mr. Gupta didn't hesitate. And then he started to  
14 reveal what the discussion was at the board meeting. Let's go  
15 to that.

16 Mr. Gupta says, I would be extremely surprised if  
17 there was anything imminent. This is after they talked about  
18 whether they are going to acquire Wachovia. There was a  
19 discussion that Mr. Gupta says they talked about possibly  
20 acquiring AIG, an insurance company. Then, this is the portion  
21 of the transcript on page 4 where Mr. Gupta reveals there is  
22 nothing imminent.

23 Now, why is that important? Why is it that an  
24 insider, a man sitting on the board of Goldman Sachs, telling  
25 somebody that this rumor out there about Goldman acquiring

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Summation - Mr. Brodsky

1 reason he placed the trade was because he got that call from  
2 Gupta. Then you fast-forward another month later in October,  
3 and you have the same thing all over again, the same proof,  
4 which is overwhelming. Another call from Gupta to the  
5 defendant, the defendant placing a trade, and then the next day  
6 the defendant essentially bragging that he had this insider at  
7 Goldman on the board of directors giving him this information.

8 So let's go through that and show that evidence.  
9 Let's take a look at the timing of the calls.

10 Before we do that, I want to back up one step and look  
11 at September 22 and September 23. This is Government Exhibit  
12 73. The key trade that of course we are all talking about is  
13 right here, late in the day, that we will get to in a minute  
14 blow by blow. I want to talk about the two trades in Goldman  
15 Sachs before that, early in the morning on September 23, and  
16 then the prior day September 22, 2008.

17 What do you see? Right here on this trade, September  
18 22, 2008, there was a call between Gupta and Mr. Rajaratnam at  
19 9:57 a.m. And less than an hour later, Mr. Rajaratnam is  
20 buying 100,000 shares of Goldman Sachs stock.

21 Let's go to the next time Mr. Rajaratnam purchases  
22 shares in this two day period. At 9:45 a.m., there is a call  
23 between Galleon and Gupta. And four minutes later, Mr.  
24 Rajaratnam purchases 50,000 shares of Goldman Sachs stock.  
25 These are not coincidences.

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Summation - Mr. Brodsky

1 Now, let's go to the next one. Let's put up the next  
2 slide and the next one after that. On September 23, 2008, you  
3 know Mr. Gupta was on the Goldman Sachs board from 3:13 p.m. to  
4 3:54 p.m. And you know what happened on that board because you  
5 heard it from Mr. Blankfein. This was the board meeting on  
6 September 23, and Mr. Blankfein said the board was signing off  
7 and approving, at the time of this financial collapse in the  
8 United States, they were signing off and approving on great  
9 news, that Warren Buffett, one of the most famous and  
10 well-known and premier investors in history, was going to  
11 invest billions of dollars in Goldman Sachs, and it was going  
12 to send a signal to the marketplace, if Warren Buffett believed  
13 in Goldman Sachs stock, then Goldman Sachs was safe from  
14 collapsing. If you remember this time of year, people weren't  
15 sure after the Lehman bankruptcy who was going to collapse  
16 next. So there was a lot of rampant speculation in the  
17 marketplace. Nobody knew what to think. And here you have  
18 Buffett investing in Goldman Sachs stock. And that occurs from  
19 3:13 to 3:54, the Goldman board approves of the deal, and  
20 that's at 3:54, right before the end of the trading day.

21 Right then and there, 16 seconds later, who does  
22 Mr. Gupta call? Mr. Rajaratnam. That's not a coincidence.  
23 And what happens next? Two minutes later Mr. Rajaratnam buys  
24 Goldman Sachs stock. Now, he puts in an order to buy 350,000  
25 shares of stock worth \$43 million at that time, 3:58 p.m.

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Summation - Mr. Brodsky

1 That's a huge purchase of \$43 million based on a short call  
2 with Mr. Gupta, right after Mr. Gupta got off the call of a  
3 board meeting. You know why he was buying the stock. He was  
4 buying the stock because Mr. Gupta had told him there is going  
5 to be great news and Goldman's stock is going to rise, which is  
6 exactly what happens.

7 Now, how else do you know this is what happened? If  
8 this is all you have, you know exactly why Mr. Rajaratnam  
9 bought the stock. 16 seconds after Mr. Gupta is getting off  
10 the board meeting and calling Mr. Rajaratnam based on the prior  
11 call, and Mr. Rajaratnam is getting inside information from  
12 Mr. Gupta about a board meeting, you know exactly what is going  
13 on here. But if that wasn't enough, you actually have a  
14 recorded conversation the next day, Government Exhibit 627TR.  
15 In this conversation, Government Exhibit 627TR on page 1, Mr.  
16 Rajaratnam says, "I got a call at 3:58 saying something good  
17 might happen to Goldman." He is admitting to his trader, Ian  
18 Horowitz, that he purchased the shares not based on anything  
19 other than the fact that he got that call at 3:58 from  
20 Mr. Gupta. He says it on the tape and admits it. So you know  
21 exactly why he did it.

22 Now, let's talk about the timing of the call and the  
23 trade on October 23 to October 24, it 2008.

24 Now, before we get to the next slide, you know on  
25 October 23, Mr. Gupta had a call with Mr. Blankfein.

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Summation - Mr. Brodsky

1 Mr. Blankfein testified he did these posting calls, right?  
2 That on occasion, when he felt he needed to update the board  
3 members about significant information that's going on, he tried  
4 to keep them posted on what is going on. And he had these  
5 board posting calls with various board members on October 23,  
6 and one of them was Mr. Gupta. And he had that conversation  
7 with Mr. Gupta at 4:17 to 4:50 p.m. And during that call,  
8 Mr. Blankfein told him the most significant piece of  
9 information happening at Goldman at that time. And what was  
10 that? For the first time in Goldman's history -- they hadn't  
11 been around for more than 15 years, but for the first time in  
12 Goldman's history, which is significant for Goldman, and  
13 significant to the public marketplace, Goldman was losing \$2 a  
14 share. Goldman had never lost money in a quarter before. And  
15 at this point in the quarter they were losing money. And so  
16 Mr. Blankfein was updating the board members that it's not  
17 looking good for Goldman this quarter, we are losing \$2 a  
18 share. And that's the purpose of this posting call.

19 What happens next after this call? At exactly the  
20 moment, 23 seconds after getting off the call with  
21 Mr. Blankfein, Mr. Gupta calls who else? The defendant. 23  
22 seconds later. You know exactly what he was doing. He was  
23 updating him about what happened at the Goldman Sachs board  
24 meeting. You don't need to listen to that conversation to know  
25 what was going on. And if that's all you had, you know exactly

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Summation - Mr. Brodsky

1 He then says, "The street has them making \$2.50."  
2 What does that mean? You know from some of the testimony that  
3 the street is Wall Street, and that's the consensus, the  
4 general average view. The average view on Wall Street is at  
5 this time Goldman is doing great, they are making \$2.50 a  
6 share. The insider knows that's 100 percent not true. The  
7 insider Mr. Blankfein disclosing it to the insider Mr. Gupta,  
8 Mr. Gupta revealing it to Mr. Rajaratnam, that they are  
9 actually losing \$2 a share. So if you're holding Goldman Sachs  
10 stock and you're a reasonable investor, of course you would  
11 sell Goldman Sachs stock, but the ordinary average investor  
12 doesn't have access to Mr. Gupta. So the ordinary average  
13 investor who is holding Goldman Sachs stock doesn't know what  
14 to do because the street is saying they are going to earn  
15 \$2.50.

16 Now, Mr. Rajaratnam then says, "You know, I can get  
17 that number, you know, the one they don't report until  
18 December." What is the number he is talking about? The  
19 quarterly earnings. And how can he get that number? He can  
20 get the number from Mr. Gupta.

21 Now, he goes on to say, "They have these huge marks in  
22 ICBC and all that stuff, is getting absolutely clobbered, you  
23 know."

24 Line 28, Mr. Rajaratnam says, "So what he was telling  
25 me was that Goldman" -- let's stop it right there. "What he

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Summation - Mr. Brodsky

1 was telling me" means what Mr. Gupta was telling him. So what  
2 Mr. Gupta was telling him was that the quarter is pretty bad.  
3 "They have zero revenues." So that's Mr. Gupta telling him  
4 they have zero revenues. And what do you know from  
5 Mr. Blankfein's testimony? They had zero revenues at this  
6 point.

7 Then he goes on to say, "Because their trading  
8 revenues are offset by asset losses and to date they have lost  
9 \$2 per share."

10 All of that is information, critical, material  
11 nonpublic information from Mr. Gupta Mr. Rajaratnam is  
12 admitting.

13 Now, there is no other rational explanation for the  
14 timing of the calls, the timing of the trades -- the timing of  
15 the call between Mr. Gupta and the board, the timing of the  
16 call from Mr. Gupta to Mr. Rajaratnam, and the timing of the  
17 trade from Mr. Rajaratnam after the conversation with  
18 Mr. Gupta. There is no other rational explanation. And then  
19 you have the wire calls. So there are no other rational  
20 explanations that he got the information from Mr. Gupta. There  
21 is no internal Galleon analysis. There is no Fly on the Wall  
22 article about a Buffett investment or \$2 per share loss.

23 And Mr. Schutte's testimony about TARP and rumors that  
24 Goldman might raise capital just doesn't make sense. Why  
25 doesn't it make sense? Well, TARP wasn't the basis. You don't

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Summation - Mr. Brodsky

1 order \$43 million of stock based on TARP, when it wasn't clear  
2 which banks were going to get the money. Dozens of banks were  
3 cleared to gain from TARP, including the Bank of America, and  
4 Mr. Rajaratnam didn't buy any of those banks. Plus, on the  
5 phone call the next day, he didn't say, I am buying Goldman  
6 Sachs because of TARP. He said, I am buying Goldman Sachs  
7 because I got a call at 3:58, and that call was from Mr. Gupta.

8 As for the capital raise, you saw that Galleon  
9 received actual notices on September 22, the day before Mr.  
10 Rajaratnam gets the call from Mr. Gupta and then makes the  
11 trade, that Goldman expressly states there are not imminent  
12 capital raises. So common sense tells you a professional money  
13 manager doesn't make a huge bet based on nothing more than  
14 rumors about what Goldman is going to do, especially when  
15 Goldman is saying we are not raising capital.

16 And on the October trade, it's not because of ICBC.  
17 Yes, he mentions in the call ICBC, but he is telling him it's  
18 the \$2 per share loss that he learns from the Goldman Sachs  
19 board member that's critical. And why doesn't the ICBC story  
20 make sense? It doesn't make sense because, although it's not  
21 on the defense trading chart -- you won't see it on the defense  
22 trading chart in October relating to Goldman Sachs trading,  
23 conspicuously absent and it's not there, but three days before  
24 he sells all his Goldman Sachs stock on October 24, on October  
25 21, 2008, when ICBC stock is a little bit above \$3, but below

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Summation - Mr. Brodsky

1 \$4 from that \$5 of Hong Kong money in August of 2008, Mr.  
2 Rajaratnam is buying Goldman Sachs stock on October 21, 2008.  
3 So it's nothing to do with ICBC's calculations, predictions,  
4 that Mr. Blankfein himself says you can't tell what Goldman  
5 Sachs stock is going to do based on ICBC.

6 And those calls say it all. It's no coincidence that  
7 the defendant said he got a call from a Goldman Sachs board  
8 member and it lines up perfectly with the trading and the call.

9 Now, moving on from that, how else do you know there  
10 were others at Galleon engaged in a conspiracy to trade based  
11 on material nonpublic information? You know because of  
12 Mr. Smith's testimony, which was corroborated by e-mails, a  
13 recorded conversation with the defendant, phone records and  
14 trading accounts. Mr. Smith testified that Kamal Ahmed tipped  
15 him illegally about three deals. The first was the acquisition  
16 of ICST by IDTI, the second was the acquisition of ATI, which  
17 we already talked about, and the third was that bake-off with a  
18 term sheet on that phone call where Mr. Smith tells Mr.  
19 Rajaratnam, Hey, Kamal is giving us another illegal tip. He  
20 doesn't use the word illegal, but basically that's the message.

21 Now, you know Smith told the truth about all of that  
22 for the following reasons.

23 First, Kamal Ahmed worked on or had access to  
24 confidential information about each of those deals in the same  
25 office where the deals were taking place. That's not a

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Summation - Mr. Brodsky

1 coincidence.

2 Second, Mr. Smith testified that he learned about the  
3 acquisition of ICST by IDTI from Kamal Ahmed about one month  
4 before a Morgan Stanley conference in March.

5 Now, Mr. Lynam challenged Mr. Smith repeatedly about  
6 when he learned about it, but Mr. Smith consistently and  
7 repeatedly testified that he learned about it from Kamal Ahmed  
8 about one month before the Morgan Stanley conference.

9 Now, Smith didn't have his February 2005 phone  
10 records. He just didn't have those. Who had those? The  
11 government didn't have them at the time of Mr. Smith's  
12 testimony. But, you know, after Mr. Lynam's cross-examination  
13 we got them.

14 Let's put up Government Exhibit 282. April 4, 2011,  
15 after Mr. Smith testified, days after Mr. Smith testified, the  
16 government gets ahold of Mr. Smith's cell phone records for  
17 646-206-2040 for the relevant dates. Now, obviously, Mr. Smith  
18 didn't have access to these. And not surprisingly, what do  
19 these records show? They show that Mr. Smith and Mr. Ahmed  
20 spoke on February 10, 2005 for nine minutes, completely  
21 corroborating Mr. Smith's testimony as to the timing of when he  
22 learned about the deal.

23 Third, the trading records corroborated because when  
24 does Mr. Rajaratnam start purchasing ICST? No surprise. The  
25 day after this call on February 11, 2005. So we have the call

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Summation - Mr. Brodsky

1 from Smith to Ahmed on the night of February 10. And then when  
2 does Mr. Rajaratnam start buying ICST that year? The very next  
3 day. That's not a coincidence.

4 Fourth, Mr. Smith testified that he e-mailed Mr.  
5 Rajaratnam updates. Those updates, those eyes e-mails are  
6 smoking guns. There is no other definition for those e-mails.  
7 There is no other better description. They occur throughout  
8 the time Mr. Rajaratnam is holding his stock. We will show  
9 them in a minute. But you see the eyes e-mails one after the  
10 other after the other. There were three of them. And they  
11 were e-mails from Smith to Rajaratnam telling him, without  
12 disclosing what the eyes are, in coded language he is telling  
13 him what is going on with the deal.

14 Now, let's put up the next exhibit. These are the  
15 eyes e-mails, Government Exhibit 2454, 2455 and 2456. Why are  
16 these smoking guns? Why are they such compelling,  
17 contemporaneous, corroborative evidence of Smith's testimony?  
18 Because you know that you're using the eyes as a code name.  
19 You're not mentioning ICST, which stands for one eye, and IDTI,  
20 which stands for the second eye. You're using a coded name.

21 And on the first one, on March 9, he says, "I had a  
22 chance to update and we are still on track." That's coded  
23 language, I spoke to Ahmed, we are still on track. I got an  
24 update from him at the Morgan Stanley conference.

25 Then the second one, March 17, 2005, again described

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Summation - Mr. Brodsky

1 as eyes from Smith to Mr. Rajaratnam, "Game on." He mentions  
2 another stock ticker because he doesn't care, he doesn't have  
3 inside information about that one, but no, he is not going to  
4 mention ICST and IDTI, and he is certainly not going to mention  
5 Kamal Ahmed's name in this e-mail. "Game on," meaning the deal  
6 is going forward.

7 Finally, you have April 21, 2005. "The date is set  
8 for May 16." Why is that such a powerful piece of evidence,  
9 for which there is no other rational explanation other than  
10 Mr. Smith is getting inside information from Mr. Kamal Ahmed?  
11 Why? Because you have internal Morgan Stanley documents right  
12 around that time, right before this e-mail is sent, showing  
13 that Mr. Ahmed is receiving information that the deal is going  
14 to be announced on May 16. And is there any surprise that this  
15 e-mail says the date is set for May 16? How does Mr. Smith  
16 know that? There is only one way he knows it. He knows it  
17 from Kamal Ahmed. And in coded language of the eyes, he is  
18 telling the defendant May 16 it's going to be announced.

19 Now, it shouldn't surprise anybody that right before  
20 what is believed to be the announcement date of May 16 -- we  
21 have another slide -- Mr. Rajaratnam buys and sells several  
22 hundred thousand shares. You see the arrow is right there. So  
23 that's days before May 16, Mr. Rajaratnam, no surprise, does  
24 what he does when he has inside information. He buys a couple  
25 hundred thousand shares and then sells it immediately. Why?

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Summation - Mr. Brodsky

1 Because again, later on, if asked by regulators, he would say,  
2 why would I sell my ICST stock if I thought there was an  
3 acquisition?

4 Now, how else do you know? The sixth reason is  
5 Mr. Smith testified that Ahmed told him the name of both the  
6 acquirer and the company being acquired, ICST and IDTI. And  
7 it's no coincidence that what Mr. Rajaratnam did was he went  
8 long or purchased shares of the company that was going to be  
9 acquired. And often when that happens, when there is an  
10 acquisition, company A that's acquiring company B, company A's  
11 stock that's making the acquisition, their stock goes down;  
12 company B's stock that's getting acquired for a premium, their  
13 stock goes up. So you buy company B stock ICST, and that's  
14 what he did. And you short the stock of the company that's  
15 going to acquire the other company, and that's exactly what the  
16 defendant did.

17 You remember also that Mr. Rajaratnam's trading was so  
18 strange -- you heard this during some of the testimony on the  
19 defense case -- that ICST's CEO actually questioned Mr.  
20 Rajaratnam and said, you must have had inside information.

21 Seventh, the defendant asked Mr. Smith to create a  
22 cover e-mail to justify the trades. How do you know that  
23 happened? That's corroborated by Mr. Rajaratnam's own words  
24 doing the same thing to Mr. Panu and Mr. Chellam after getting  
25 that Kumar tip.

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Summation - Mr. Brodsky

1           And, finally, what is the best evidence that proves  
2 Mr. Smith told the truth about his illegal tips to Mr.  
3 Rajaratnam from Kamal Ahmed? 692T. I am not going to play the  
4 call. Again, you can ask for it. It's a recorded conversation  
5 between them on May 1, 2008, and it completely corroborates  
6 Smith. Let's go to part of the transcript.  
7           During this part of the transcript, Mr. Smith gets on  
8 the call. It's a call between Mr. Horowitz and Mr. Rajaratnam  
9 about some trades they were making, and then Mr. Smith jumps on  
10 and he starts whispering to Mr. Rajaratnam, if you remember  
11 that call. He was whispering because he didn't want anybody  
12 else to hear they are talking about an illegal tip. And Mr.  
13 Rajaratnam says, "Adam, how are you?" Mr. Smith says, "Listen,  
14 I talked to Kamal last night." And then, line 26, "They bid on  
15 a deal sheet for Vishay."

16           You don't hear Mr. Rajaratnam say, Kamal who? Bid on  
17 who? What are you talking about? Absolutely not. What you  
18 hear right here is Mr. Rajaratnam knows exactly who Kamal is,  
19 knows he is an investment banker, knows exactly what a deal  
20 sheet is. And Mr. Smith goes on to describe, it's private  
21 equity, they lost, meaning they didn't get the mandate, they  
22 are not going to represent Vishay in selling itself. But Kamal  
23 Ahmed discloses to him, the deal looks phenomenal and they have  
24 a willing seller, which is Vishay. The problem is, Mr. Smith  
25 says, he is not going to be able to get updates. Kamal Ahmed

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Summation - Mr. Brodsky

1 won't have updates because they are not going to be  
2 representing Vishay. That completely corroborates the account  
3 of Mr. Smith. Mr. Rajaratnam doesn't react, who is Kamal, what  
4 are you talking about?

5 And what else corroborates him? The phone records  
6 show the night before this conversation Ahmed and Smith spoke  
7 for 20 minutes. And the trading records, no surprise, within a  
8 week of this call, Mr. Rajaratnam bought 650,000 shares for \$6  
9 million worth of Vishay stock. Is that a coincidence? Of  
10 course not.

11 Now, finally, what is the other corroboration in  
12 Mr. Smith's testimony? The phone and trading records relating  
13 to Xilinx completely corroborate Mr. Smith's account. Mr.  
14 Smith was talking about how Mr. Rajaratnam would often say, I  
15 am going to call Kris and get the update on the Xilinx numbers.  
16 And we showed some trading records and phone records reflecting  
17 the fact that that actually happened.

18 Were there other people at Galleon involved in the  
19 conspiracy? Yes, there were. In addition to Rengan, Chellam,  
20 Panu and Smith, Mr. Smith told you about Joe Liu's faxes to the  
21 defendant with inside information about certain companies, like  
22 Synaptics, and then there was that recorded conversation you  
23 heard between Mr. Joe Liu, who is based out in Taiwan in the  
24 Galleon office of sorts, and Mr. Rajaratnam. And during that  
25 call it completely corroborates what Mr. Smith said Liu

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Summation - Mr. Brodsky

1 information. We will put up the phone records showing when she  
2 got the information on July 24th and who she called next, and  
3 you will see from those records you know exactly what is going  
4 on.

5 At 8:41 p.m., Mr. Rajaratnam is talking to Ms. Chiesi  
6 that night on July 24, 2008. And for nine minutes they are  
7 talking. And you see immediately that conversation ends  
8 because Mr. Taylor is calling in at 8:52.

9 Now, you know what happened. Ms. Chiesi was on the  
10 call with Mr. Rajaratnam, they are talking about information,  
11 and all of a sudden Kieran Taylor is calling in, Ms. Chiesi  
12 said, I've got to take it, that's my source at Akamai.

13 She takes the call with Mr. Taylor, talks to him for  
14 15 minutes, and her first call right after she gets off the  
15 phone is to her boss Mr. Kurland at New Castle Partners. So  
16 she calls her boss first. And then who does she call  
17 immediately after getting off the phone? She calls the  
18 defendant, Mr. Rajaratnam. And she talks to him then at that  
19 time.

20 Now, after talking to her boss, she immediately calls  
21 the defendant, and we will play a portion of this call. You  
22 will hear right at the outset Chiesi sharing the information  
23 she got from the Akamai executive, and then we will talk about  
24 it.

25

(Audiotape played)

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Summation - Mr. Brodsky

1 MR. BRODSKY: After getting that call from Kieran  
2 Taylor, the executive at Akamai, she calls her boss, and then  
3 she calls the defendant, and that was the call in which she  
4 told the defendant, "I just heard from my guy," the guy Kieran  
5 Taylor. "They are going to guide down," she says. And she  
6 tells Mr. Rajaratnam, "They could go to 25," \$25 per share.

7 That was material nonpublic information. It was  
8 information that an executive at Akamai had that wasn't  
9 available generally to the public. And how do you know that?  
10 From Mr. Rajaratnam's own words, "nobody expects it," he says  
11 in that call, "nobody expects it."

12 Now, Mr. Rajaratnam says he is already short the  
13 stock. And that's true. He is a little bit short the stock.  
14 But after getting this inside information from Ms. Chiesi, who  
15 is getting it from her guy at the company, which was much more  
16 specific, much more reliable, much more accurate, he then takes  
17 a trading position that nearly triples his short position in  
18 the stock.

19 During this call, we didn't play it but we can put up  
20 a slide, you know J.D. Sherman, Akamai's CFO, said that  
21 Akamai's poor results were a surprise and the marketplace  
22 didn't expect it. Mr. Rajaratnam was saying, nobody expects  
23 it.

24 Then for the next slide, Mr. Rajaratnam advises Chiesi  
25 to short the stock, but remain radio silent. Remain radio

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Summation - Mr. Brodsky

1 silent. Why does he tell her to keep quiet about this secret  
2 information? Because they want to take advantage of the  
3 ordinary average investor in the marketplace who doesn't have  
4 access to this information, remain radio silent and they can  
5 benefit and they can make some money. How do you know he  
6 traded based on this secret information when he was already a  
7 little bit short the stock? How do you know that?

8 Let's look at Government Exhibit 42. You see Mr.  
9 Rajaratnam is already short the position in Akamai. He has  
10 300,000 shares short. After the call, in the next coming days,  
11 he shorts from 300,000 to 875,000 shares. His conviction  
12 level, as they like to call it at Galleon, just went through  
13 the roof because he has got an insider at Akamai telling his  
14 partner in crime Chiesi that Akamai is going to guide down.  
15 That's an extraordinary increase in the short position how.

16 How else do you know Mr. Rajaratnam traded based on  
17 Chiesi's information? How else do you know? Because Mr.  
18 Rajaratnam thanked her. Akamai guided down, its stock tanked,  
19 and Mr. Rajaratnam thanked her.

20 Let's play that portion of the call. It's Government  
21 Exhibit 543T.

22 (Audiotape played)

23 MR. BRODSKY: That's thank you for the inside tip  
24 about Akamai guiding down. That's thank you because I tripled  
25 my short position right after the call. And that's thank you

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Summation - Mr. Brodsky

1 because I just made millions of dollars by tripling my position  
2 after your call.

3 How else do you know he traded based on Chiesi's  
4 information? Look at the strikingly similar pattern between  
5 Rajaratnam's trading and Chiesi's trading at New Castle right  
6 after this tip.

7 Let's put up Government Exhibit 41. It shows Mr.  
8 Rajaratnam after that call shorting 200,000, 250,000,  
9 repeatedly, and then some put options. Again, put options were  
10 basically shorts on steroids. They're basically betting the  
11 company is going to really go down. And you have it trading  
12 from July 25, 29 and 30 shorting the stock.

13 Let's put up Government Exhibit 43. Once again, you  
14 have Ms. Chiesi at her place shorting the stock, doing put  
15 options during the same period of time, from July 25 through  
16 July 30, 2008.

17 And when Akamai's stock price crashed, both of them  
18 made millions of dollars. Let's put up Government Exhibit 44  
19 and 45, the summary charts, showing Mr. Rajaratnam's Galleon  
20 tech fund made over \$5 million and Ms. Chiesi's New Castle Fund  
21 made over \$2 million. And the profits here are the profits  
22 just from the increase in the short position. They don't  
23 include the little shorting that Mr. Rajaratnam did before he  
24 got the call from Chiesi.

25 Now, how do you know Chiesi's source, the Akamai

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Summation - Mr. Brodsky

1 executive, had breached his duty of confidentiality when he  
2 disclosed the information to Chiesi? You know because Chiesi  
3 said, her guy had just told her Akamai was to guide down, and  
4 the telephone records corroborate she was speaking to Kieran  
5 Taylor right before she called her boss and then the defendant.

6 And what did the evidence show about the benefit to  
7 Mr. Taylor by disclosing this to Chiesi? After the call we  
8 just reviewed, the FBI obtained court authorization and  
9 obtained a wiretap on Chiesi's phones, and there were a couple  
10 of calls that reflected the relationship between Chiesi and  
11 Taylor, and showed that Taylor received illegal stock tips from  
12 Chiesi, and that's why he was motivated to provide her with  
13 information, and he also offered her information as a gift.

14 Government Exhibit 698T on September 9, 2008, page 4.  
15 Here is Danielle Chiesi, basically a little pay back for Mr.  
16 Taylor, now a few months later in September 2008. "I've got a  
17 big deal, the Dubai deal, and I've got a lot of different  
18 things working, and I think you can get a double on this, and  
19 the stock is trading below 6, I got at 10." They are talking  
20 about the AMD Mubadala, and she is disclosing to him what she  
21 knows, they've got inside information that this is a good stock  
22 tip, she gives it to him. And he said, "OK, good, I really  
23 appreciate that, Dani, thank you so much."

24 So that's a thank you in exchange. I have given you  
25 the Akamai tip. This is part of their relationship. She is

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Summation - Mr. Brodsky

1           You remember Government Exhibit 553TK. That was the  
2 conversation when Mr. Kumar relayed to Mr. Rajaratnam they have  
3 shaken hands. Minutes later, 554TR, Rajaratnam calls Chiesi to  
4 talk about that investment in AMD, and they exchange inside  
5 information. And how do you know they knew they were getting  
6 secret information from each other that no one else had access  
7 to? Because you heard Mr. Rajaratnam's advice to her.

8           Let's go to that. He basically says, I think the  
9 stock could go to \$10, but we need to keep this radio silence.  
10 What did he mean? Once again, he meant the announcement of the  
11 deal in which Mubadala would invest 6 to 8 billion dollars in  
12 AMD, with IBM's technology, could double AMD's stock price.  
13 That's what he expected at the time. He thought with this  
14 inside information, they expected AMD stock to rise to \$10, and  
15 they would make a ton of money. Of course, they ran into the  
16 financial collapse, and who could expect the greatest financial  
17 collapse since the Great Depression to occur? Nobody.

18           The defendant wanted radio silence because he didn't  
19 want this information getting out.

20           Now, there is another example of a call between Mr.  
21 Rajaratnam and Ms. Chiesi. That's 594TR. August 27, 2008.  
22 Let's put up part of the transcript on page 2, where Ms. Chiesi  
23 asks, "Do you think that I should be showing a pattern of  
24 trading AMD?" And Mr. Rajaratnam responds, "I think you should  
25 buy and sell, buy and sell, you know."

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Summation - Mr. Brodsky

1           Once again, that's that same pattern. You saw it  
2 before. Mr. Rajaratnam had been using it since 2006, since the  
3 ICST tip. Your common sense tells you they are talking about  
4 creating a pattern of buying and selling because they know they  
5 have inside information, and they need to manufacture a defense  
6 just in case the government starts asking questions.

7           The conversation then goes on and Chiesi says her fear  
8 is the stock price is going to go to 30 percent. And Mr.  
9 Rajaratnam says, that's an opportunity. Don't be afraid.  
10 That's great. And he tells her then, this is why you have to  
11 keep it quiet. And she says again, she fears being  
12 investigated. And he tells her, I would trade, I would sell  
13 250, meaning 250,000, and buy 250,000. That's line 39. Again,  
14 buy and sell, buy and sell, that will protect you in case the  
15 authorities come calling.

16           Then the next slide. The conversation then continues  
17 and Ms. Chiesi says, she is not going to do any options because  
18 of red flags to regulators that there might be some illegal  
19 business going on if you do it right before an acquisition or a  
20 major announcement by AMD.

21           Then they go on to discuss, Rajaratnam says, "On  
22 Akamai or IBM, anything, be radio silent." What he knew there  
23 is that Chiesi was giving him inside information, and he wanted  
24 her to be radio silent about it, don't let their secrets out  
25 into the marketplace.

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Summation - Mr. Brodsky

1 Mr. Rajaratnam then goes on to say, in the next line,  
2 "Like, you know, I get S-H-I-T on lots of companies, right?"  
3 What did he mean by that? It meant he got secret information  
4 from lots of companies.

5 Now, there is also a later recorded conversation that  
6 further proves that Rajaratnam and Chiesi were exchanging  
7 inside information. This one is 625TR. It's September 23,  
8 2008, and during this one they talk about what their insiders  
9 have told them regarding the announcement of the AMD deal.

10 Let me give an example. On page 2, lines 5 through 7.  
11 Mr. Rajaratnam says, "Because I found out it's not going to be  
12 till October. First I thought September." So there is the  
13 defendant giving his information that he learned from Kumar.

14 If we go to page 2, Mr. Rajaratnam goes on to say --  
15 you remember he asked Kumar to find out AMD's quarterly  
16 earnings numbers, what's going on with that? This is Mr.  
17 Rajaratnam providing the numbers.

18 Let's go to page 3. Mr. Rajaratnam then goes on to  
19 provide the numbers. I think actually on this call, Mr.  
20 Rajaratnam got the numbers, but I don't think they were from  
21 Kumar. He got the numbers from AMD, and he is providing these  
22 numbers to Ms. Chiesi. And he is bragging on page 3, lines 41  
23 to 43, he is the best on AMD now. What does he mean by that?  
24 He means that although Chiesi had her source who was on the  
25 board of directors of AMD, who was giving her good information,

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Summation - Mr. Brodsky

1 he had better sources, and he could challenge her for getting  
2 inside information.

3 Then the next slide, they compare notes about who had  
4 access to the best secret information regarding AMD, IBM and  
5 Akamai.

6 All these conversations show exactly what Rajaratnam  
7 had told Kumar about Chiesi. You remember his testimony on  
8 this point. Kumar had learned from Mr. Rajaratnam that Chiesi  
9 and Ruiz had an intimate relationship, and that Mr. Ruiz was  
10 disclosing secret information to Chiesi, which Chiesi in turn  
11 provided to the defendant. And the defendant told Kumar that  
12 Chiesi was able to get AMD's quarterly earnings from Ruiz. In  
13 fact, the secret information that Chiesi got from Ruiz was so  
14 good and so frequent in 2007 and 2008, Mr. Rajaratnam told  
15 Kumar that the value of his information, because he was able to  
16 get information from AMD because Kumar's client was AMD, the  
17 value of Kumar's information was dropping a little bit because  
18 Chiesi was able to get similar secret information from her  
19 source.

20 So to summarize once again, we have got wire calls,  
21 recorded conversations that are powerful evidence of the  
22 defendant's guilt. You have got the trading records, you have  
23 got the phone records, you have got Kumar's testimony, all of  
24 that consistent with each other, with the timing of the trades  
25 and calls, all proving the defendant is guilty of the

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14K8RAJ3

Summation - Mr. Brodsky

1 conspiracy with Chiesi, and then you have the actual trading in  
2 Akamai, the tripling of the short position right after getting  
3 the tip from Akamai.

4 Let's turn now to the last of the five schemes, Mr.  
5 Rajaratnam's scheme --

6 MR. BRODSKY: This might be a good time to break.

7 THE COURT: We will adjourn until 2:15.

8 (Jury exits courtroom)

9 THE COURT: Mr. Brodsky, do you have an estimate of  
10 how much more you think you have?

11 MR. BRODSKY: I slowed down a little bit because I got  
12 tired. I think if I had to estimate, I would probably say an  
13 hour and a half.

14 THE COURT: All right.

15 THE COURT: We will start again at 2:15.

16 (Luncheon recess)

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14KFRAJ4

Summation - Mr. Brodsky  
AFTERNOON SESSION

2:20 p.m.

THE COURT: Mr. Brodsky, would you continue?

MR. BRODSKY: Thank you, your Honor.

So for the remaining balance of my time, what I would like to talk about with you is the conspiracy, proof, the overwhelming proof relating to -- we went through the overwhelming proof relating to the first four schemes, the scheme with Kumar, the scheme with Goel, the scheme with Galleon and Ruiz, the scheme with Chiesi. Now I'd like to speak about the scheme between the defendant and Roomy Khan, then I'd like to talk a little bit about the cooperating witnesses that you heard, a little bit more about the techniques that the defendant used throughout his conspiracies to try to cover up his crimes and then a little bit about materiality, benefit and non-public information and then conclude.

So let's turn to the last of the five schemes charged in the indictment, Mr. Rajaratnam's scheme to exchange inside information with Roomy Khan. What did the evidence show about that scheme? What it showed is that Ms. Khan had worked for Galleon in the past, and then started to trade stocks for her own personal account. And Ms. Khan, Roomy Khan and Mr. Rajaratnam communicated about stocks frequently, sending each other instant messages that they wanted to speak by

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Summation - Mr. Brodsky

1 telephone. The evidence shows that Roomy Khan tipped  
2 Mr. Rajaratnam about three secret events; the acquisition of  
3 Hilton in July 2007, the disastrous quarterly results of Google  
4 in that same month, July 2007, the good news about Polycom's  
5 quarterly results in January of 2006. So we'll talk about each  
6 of those three.

7 So here, unlike the other four schemes, because this  
8 took place in 2006 and 2007, there are no recorded  
9 conversations, no wiretaps. But what the evidence that is left  
10 behind is the trail of electronic communications, the timing of  
11 the telephone calls, the trades and the pattern that's  
12 reflected in each, and some of the contents of the  
13 communications between the defendant and Roomy Khan.

14 So if we put up the slide, what we have here, the next  
15 slide, what we have here is with respect to this, Ms. Khan was  
16 getting inside information from Deep Shah relating to the  
17 acquisition of Hilton; Polycom from an insider, Sunil Bhalla  
18 and for Google Shammara Hussein who worked for Google's outside  
19 marketing firm, and exchanging that information, providing that  
20 information to Mr. Rajaratnam, who was giving her inside  
21 information.

22 So we'll go through each of those. I'd like to start  
23 first with the acquisition of Hilton. You learned from Peggy  
24 Holloway, who works for Moody's, that Moody's learned about the  
25 acquisition of Hilton before it was public, before it was

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Summation - Mr. Brodsky

1 announced by Hilton. And that's because Moody's places ratings  
2 on, among other things, the debt of publicly traded companies.  
3 Hilton was one of those companies. So Moody's often learns  
4 secret information from companies like Hilton and it's under a  
5 clear obligation to keep that information secret.

6 Moody's learned a very exciting and surprising secret  
7 on July 2, 2007. At about 2:20 p.m. that day, Ms. Holloway  
8 testified that she learned from Hilton that Hilton was going to  
9 be acquired, and it was going to be at a large premium, at a  
10 price much higher than where the price was traded and the deal  
11 was going to be announced within 36 hours. This was going to  
12 be an extremely quick announcement, from the time Ms. Holloway  
13 learned the news. The market closed the next day, on July 3rd,  
14 after the market closed on July 3rd. That's what Holloway  
15 testified to and that's what the phone records showed, that at  
16 about 2:20 p.m., Holloway got a call from Hilton.

17 Now, Holloway and her team had to work on the  
18 transaction to make it happen fast and Shammara Hussein -- I'm  
19 sorry, Shammara Hussein worked with the marketing firm -- Deep  
20 Shah worked with Ms. Holloway at Moody's and Deep Shah was  
21 pulled into the matter. Deep Shah didn't learn about the  
22 acquisition and the timing until the next day.

23 You know from phone records that Deep Shah and Roomy  
24 Khan had a close relationship. How do you know that? You know  
25 because they spoke at least 119 times during the first seven

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Summation - Mr. Brodsky

1 Now, why was that a good bet? It was a good bet for  
2 her, because if you know Hilton is going to be acquired and at  
3 a significant premium, you're going to make a ton of money once  
4 you buy those options.

5 What happened next? Within 40 minutes of learning  
6 Hilton was going to be bought out the next day, Ms. Khan called  
7 the defendant and she tried to reach him several times. That's  
8 again in Government Exhibit 48. She finally reaches him at  
9 4:02 p.m. after the market closes. What did she tell him? How  
10 do you know that she told him to buy Hilton? You know because  
11 it's exactly what the defendant did only five minutes after the  
12 market opened the next morning, that's Government Exhibit 50.  
13 He bought 400,000 shares of Hilton stock at an average price of  
14 \$35 a share, or \$14 million worth of stock. Now, call option  
15 activity went up after, on July 2nd, 2007 and July 3, 2007 and  
16 you know why. The call option activity went up because Deep  
17 Shah called Roomy Khan and she bought call options and she was  
18 tipping her people she was exchanging information with,  
19 including the defendant, Rajaratnam.

20 Now, the evidence shows the defendant never bought,  
21 never purchased Hilton stock before and that's another way you  
22 know that Ms. Khan told Mr. Rajaratnam Hilton was going to be  
23 acquired. If you look at Government Exhibit 52. That shows  
24 that during that entire year he had never, ever purchased  
25 Hilton stock before. He just so happened to purchase it after

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Summation - Mr. Brodsky

1 a call from Roomy Khan, after Roomy Khan purchased it at the  
2 same time she's on the phone with Deep Shah. Now, you know  
3 during cross-examination the defense counsel introduced some  
4 trading records of Hilton that year, those 13F SEC filings that  
5 showed some purchases in Hilton by Galleon. What we've already  
6 demonstrated through the trial is that none of those purchases  
7 were by the defendant Rajaratnam. None of them. So those  
8 documents are completely irrelevant.

9 The defendant's paid expert basically said that  
10 Rajaratnam's fund traded at times in non-tech stocks, as if  
11 that showed that the defendant's trades in Hilton weren't  
12 unusual. But that's not exactly right. We're not suggesting  
13 that Mr. Rajaratnam didn't trade non-tech stocks in his tech  
14 fund. You know he was trading Goldman Sachs stock quite a bit,  
15 and all of those trades are non-tech stocks. So it's not  
16 surprising that he was trading Goldman Sachs stock in his tech  
17 fund because he was doing that quite frequently.

18 What's surprising here, what's very unusual here, is  
19 that he had never traded Hilton stock before, and he only does  
20 it, he buys 14 million shares after getting off the phone call  
21 with Khan, the first thing available the next morning. That's  
22 not a coincidence. How else do you know he was trading, got  
23 the information from Ms. Khan, besides we'll talk about the  
24 same strikingly similar pattern over and over again for the  
25 next two stocks. He didn't just buy for his own book. He also

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Summation - Mr. Brodsky

1 significant. At that point, that very point, either Ms. Khan  
2 was still on the phone or the call had just ended, at that very  
3 point towards the end of the call, Mr. Rajaratnam sent his  
4 trader, Ian Horowitz, an instant message - sell all the Goog in  
5 all accounts, reached my price target.

6 At that point Mr. Rajaratnam reversed his position.  
7 Heading into the quarter he was betting at that very moment  
8 that Google's stock price was going to go up. He held 135,000  
9 shares of Google worth about \$74 million. That was a strong  
10 position in favor of Google's earnings going up. Right at the  
11 moment of this call with Khan he made 180-degree reversal. He  
12 not only sold all that stock, but he then quickly placed a huge  
13 bet that the stock would go down. That's not a coincidence.  
14 He shorted about \$25 million worth of stock and he also bought  
15 some options betting that the stock would go down within a  
16 short period. Take a look at Government Exhibit 61. That's a  
17 \$100 million swing, right here at the very point that he gets  
18 off the phone call with Roomy Khan. Either he's still talking  
19 to her or it's at the very end of that conversation.

20 Now, how do you know the defendant didn't trade based  
21 on that internal Galleon research and the price target? Well,  
22 because for three main reasons: It doesn't fit with the timing  
23 of the calls between Ms. Khan and Mr. Rajaratnam.  
24 Mr. Rajaratnam didn't sell the Google stock and start to bet it  
25 would go down until that very point that he talks to Ms. Khan.

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Summation - Mr. Brodsky

1 Second, reaching a price target doesn't mean you sell  
2 all your stock, everything you got, \$74 million and you go  
3 completely the opposite direction and you short it big for  
4 25 million. That's not reaching a price target. How do you  
5 know that's true? You know that's true because Schutte took  
6 the stand and Schutte actually traded Google that quarter, and  
7 Schutte, he sold some stock on July 13, but before the earnings  
8 were announced by Google, he bought stock. He actually bought  
9 Google stock, doing something completely different than the  
10 defendant.

11 What other evidence is there that the defendant's  
12 trading was based on Khan's tips about Google? You have phone  
13 records showing that the defendant and Khan continued to speak  
14 from July 16 to July 19, and during that period of time both  
15 were trading in the same pattern. They both bet that the stock  
16 price of Google would go down and they both bought put options  
17 to make that bet. After Google announced its bad results the  
18 stock price dropped a lot and Rajaratnam made over \$18 million  
19 in profits and losses avoided and Ms. Khan made over \$500,000.  
20 And on that very day that Ms. Khan made that money, she then  
21 sent that Fed Ex package to Shammara Hussein. When she sent  
22 that Fed Ex package -- this is important. When she sends this  
23 Fed Ex package, she doesn't put her own name on it. She puts  
24 the name Marlene and it's the day after Google's announcement.  
25 It's the day after when she's made this \$500,000, and this Fed

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Summation - Mr. Brodsky

1 Ex package arrives for Ms. Shammara Hussein. That's directly  
2 connected to Hussein's illegal tip to her about Google's bad  
3 earnings.

4 How do you know Mr. Rajaratnam traded based on Khan's  
5 Google tip and how do you know he knew Khan was getting the  
6 information, it was inside information? Take a look at what  
7 the defendant himself told Anil Kumar at the time. Let's put  
8 that up. This is Mr. Kumar's testimony, page 408 of the  
9 transcript. "Rajaratnam told me that Google was going to have  
10 a very bad quarter, that he had some special information. He  
11 seemed quite excited about knowing that and that they were  
12 going to, contrary to sort of popular belief on Wall Street,  
13 that he knew they were going to do badly and he said, you know,  
14 I'm going to short Google to make money out of it."

15 Now, special information isn't your usual research.  
16 Special information isn't your typical analysis. Special  
17 information isn't Steven Granoff, who's been there for only two  
18 quarters in 2007, just got hired only six months earlier, doing  
19 some analysis basically saying Google long-term target \$650.  
20 Special information is inside information and he's telling that  
21 to Kumar who is providing him with inside information.

22 What else he says is very interesting. He says he  
23 knew they were going to do badly. It's not like he said to  
24 Kumar I don't know if they're going to do badly, my analysis  
25 tells me this, I read it in the newspaper. No, he knew. He

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Summation - Mr. Brodsky

1 knew because he had the inside information from Roomy Khan.  
2 That special information was that Google was going to miss  
3 earnings, and that's what excited the defendant. It wasn't  
4 fundamental research.

5 Let's talk about Polycom. It's the same pattern. You  
6 learned from Laura Durr that Polycom in January 2006 was going  
7 to announce it had record revenues and that its outlook for the  
8 year was much better than Wall Street expected. Now, that  
9 again was secret information. Sunil Bhalla, corporate  
10 executive at Polycom, had access to that information. Now,  
11 Bhalla had a duty not to disclose that information, that good  
12 news, to anyone, but he did. And he had a financial incentive  
13 for doing so. He had given Roomy Khan access to his trading  
14 account, and by giving her access to his trading account, she  
15 was trading in Mr. Bhalla's account making money for him, and  
16 by giving him, by Mr. Bhalla breaching his duty and giving  
17 Roomy Khan the inside tip that Polycom was going to do record  
18 revenues, that was payback for this trading relationship.

19 Now, it's sort of like the defendant trading in  
20 Mr. Goel's account and to give him benefits with one slight  
21 difference. You saw the paperwork Roomy Khan actually filled  
22 out, official forms to get the authority to trade in  
23 Mr. Bhalla's account, the difference being Mr. Rajaratnam  
24 didn't do that. What he did was he just got Mr. Goel's ID and  
25 password and went in there secretly without anybody other than

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Summation - Mr. Brodsky

1 Mr. Goel and Mr. Rajaratnam knowing that he was trading in the  
2 account. So in exchange for using the inside information to  
3 make money for Bhalla in his trading account, Khan expected and  
4 received inside information from Bhalla about Polycom's  
5 quarterly earnings.

6 How do you know the defendant knew this? You know  
7 from a very key instant message that Khan sent to Rajaratnam.  
8 Government Exhibit 64. If we blow up the first box. On  
9 January 9, 2006 Khan sent Rajaratnam an instant message, "Do  
10 not buy Polycom until I get guidance. Want to make sure  
11 guidance okay." Why is that significant? What does that  
12 instant message tell you? Now, you know from all the people  
13 who testified, for example, Mr. Lenke, regarding the quarterly  
14 earnings process in 2007, public companies typically first  
15 learn after the close of the quarter, they first learn about  
16 revenues and some gross margins and then they learn about  
17 business outlook. It's one of the last things they learn about  
18 before they know what the company is going to report publicly.  
19 And business outlook is critically important. It's one of the  
20 key drivers of company stock. They report business outlook  
21 looks good, again, the stock price goes up. They report  
22 business outlook looks bad, stock price goes down. And here's  
23 Roomy Khan telling him, don't buy Polycom. Ms. Khan, a trader  
24 who used to work at Galleon, telling Mr. Rajaratnam with all  
25 his research available to him, do not buy Polycom until she

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Summation - Mr. Brodsky

1 they made money. Let's take a look at that. January 26,  
2 Rajaratnam to Khan at 2:31 p.m., "Hey, thanks for Polycom  
3 idea." That is the thank you after Ms. Khan got the guidance  
4 and learned it from Bhalla and told Rajaratnam now it's time to  
5 go long on Polycom because she got the information.

6 Now, the instant message before it is important, too,  
7 on January 25. It's Ms. Khan thanking Mr. Rajaratnam for  
8 Intersil. Why is that important? Why is instant message  
9 communications where Khan is thanking Mr. Rajaratnam for  
10 information on Intersil so telling? It's telling because  
11 Mr. Smith testified he had an insider at Intersil, someone who  
12 would give him the quarterly revenue number and he often gave  
13 it to Mr. Rajaratnam, quarter after quarter, and Mr. Rajaratnam  
14 knew, Mr. Smith testified, it was from an insider at Intersil.  
15 And Khan traded Intersil and she wanted that information. So  
16 this is an instant message from Khan to Rajaratnam  
17 acknowledging she had gotten information from Intersil from Mr.  
18 Rajaratnam and it was a great call.

19 And this happens again. This is not the only time  
20 they communicate like this. A few months later in April of  
21 2006 there's a similar pattern of contacts between Khan and  
22 Rajaratnam about Polycom and Intersil. Polycom is about to  
23 report its quarterly results for the first three months of the  
24 year and if we put up Government Exhibit 69 you will see  
25 multiple contacts between Mr. Rajaratnam and Khan and

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Summation - Mr. Brodsky

1 Mr. Rajaratnam purchases Polycom two minutes after they send  
2 each other an instant message. That's at 12:34 p.m. And they  
3 send each other an instant message to talk by phone.

4 Two minutes later, Mr. Rajaratnam tells his trader to  
5 purchase 100,000 shares of Polycom and just like in January of  
6 2006, the defendant gave Khan inside information about  
7 Intersil. He sent her a message saying call me on Intersil,  
8 and then just like him thanking Chiesi and thanking Ms. Khan in  
9 the previous quarter or in a previous quarter for her Polycom  
10 information, he thanks her again for this one saying, "Great  
11 job on Polycom."

12 You know from this pattern of the calls, the trading,  
13 the communications between the two, the timing of them relating  
14 to Hilton, Google and Polycom, and you know from Mr. Kumar's  
15 testimony and all the other evidence that Khan and Rajaratnam  
16 were exchanging inside information with each other and engaged  
17 in this ongoing scheme.

18 Now, let me talk a little bit about the cooperating  
19 witnesses for a moment. You heard from Anil Kumar, you heard  
20 from Rajiv Goel and you heard from Adam Smith. Three  
21 cooperating witnesses. These witnesses hope to get a reduced  
22 sentence for their cooperation. And you should consider the  
23 interests in the this case when you evaluate their testimony.  
24 Common sense tells you that the government can't learn the  
25 details of a criminal conspiracy just from law-abiding

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Summation - Mr. Brodsky

1 citizens. Law-abiding citizens can't tell us what happened  
2 during the conspiracy, the details of the conspiracy. They  
3 can't tell us what information was passed all the time, they  
4 can't tell us what happened because they're not part of it. So  
5 you don't have to like these witnesses. You don't have to  
6 excuse their criminal conduct. They committed crimes and they  
7 were serious ones. What you have to do is weigh whether  
8 they're telling you the truth, and in doing that, you should  
9 consider their testimony, but you should consider it in the  
10 context of all the evidence in the case, the testimony of all  
11 the other witnesses, the recordings of their conversations with  
12 Mr. Rajaratnam and the other exhibits. All of that  
13 corroborates what the witnesses told you. Did Kumar, Goel and  
14 Smith knowingly and repeatedly participate in insider trading  
15 schemes with the defendant? Yes, they did. Does that mean  
16 that any of them lied to you during their testimony in this  
17 trial? Ask yourselves what motive did they have to lie to you.  
18 What's in it for them? Yes, they do want to get reduced  
19 sentences. No question about it, and they all admitted that.  
20 But to get a reduced sentence they have to tell the truth.

21 Look at their cooperation agreements. They are all in  
22 evidence. Look at them carefully. There are harsh  
23 consequences for cooperating witnesses who lie. If they lie  
24 they will not get a reduced sentence. If they lie, they can't  
25 withdraw their guilty pleas. And these witnesses have known

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Summation - Mr. Brodsky

1 from the beginning that there are other participants in the  
2 conspiracies, that there are trading records and phone records  
3 and documents in evidence that the government is going to  
4 gather and get and they know all that, and so they know all  
5 this other evidence out there that they don't have access to,  
6 the government has access to, will determine and confirm  
7 whether they're telling the truth.

8 One of those great examples was Mr. Smith, right? The  
9 government obtained the phone records during this trial showing  
10 his testimony was exactly right, that he got the tip from Kamal  
11 Ahmed on February 10, 2005.

12 Now, how do you know these witnesses, these particular  
13 ones told the truth? They're corroborated by all the evidence.  
14 During his opening statement, Mr. Dowd said that each one of  
15 these witnesses were liars, and during their cross-examinations  
16 they basically called them liars, and I expect Mr. Dowd will  
17 ask you to reject their testimony for each of them. Do you  
18 know why? They have to tell you that because the testimony and  
19 the other evidence of each one of these cooperating witnesses  
20 is devastating proof of the defendant's guilt. In fact, it's  
21 the law in federal courts that the testimony of a single  
22 accomplice may be enough itself for conviction if you believe  
23 the testimony establishes guilt beyond a reasonable doubt.

24 Kumar and his related exhibits are enough to convict  
25 the defendant of the counts relating to their conspiracy and

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Summation - Mr. Brodsky

1 trading in ATI. Goel and related exhibits are enough to  
2 convict the defendant of the counts relating to their  
3 conspiracy and trading in Intel, Clearwire and People Support.  
4 Smith and the related exhibits are enough to convict  
5 Mr. Rajaratnam of the conspiracy to engage in insider trading  
6 with the other Galleon employees. And in thinking about their  
7 testimony, think not only about their incentives to tell the  
8 truth, but think about their demeanor on the witness stand.  
9 You observed them, you had the opportunity to observe them,  
10 some of them for longer than others, and all of them for at  
11 least two days. Think about how their testimony and  
12 recollection was strong and accurate and think about, for  
13 example, for Mr. Kumar, how the information he said he passed  
14 to Mr. Rajaratnam was corroborated by contemporaneous records  
15 showing he was getting that information. Did he strike you,  
16 Mr. Kumar, as someone who was just making it all up? Do you  
17 remember all the details he gave about the payments from  
18 Mr. Rajaratnam, the illegal tips he gave, the timing of those  
19 tips? Do you really think he could keep all those details  
20 straight in his head, he was just making it up?

21 You know he was telling the truth because his account  
22 was completely corroborated not only by all the trading records  
23 and the e-mails, but the wire calls of his conversations with  
24 the defendant about Spansion, eBay, AMD's financials, AMD's  
25 strategic plans, Mubadala's investment in AMD, so you know all

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Summation - Mr. Brodsky

1 think about his -- not just about his incentives to tell the  
2 truth, but how his testimony was also corroborated by that  
3 critical wire call when they talked about Kamal, the smoking  
4 gun e-mail communications, the eyes, and the other wire calls  
5 between the defendant and the other Galleon employees like Joe  
6 Liu that completely corroborated Mr. Smith's account.

7 Now, in cross-examination of Mr. Smith the defense  
8 brought out how Smith's cooperation didn't just relate to the  
9 criminal activities of Mr. Rajaratnam, but to several other  
10 people Mr. Smith was recording conversations with at the  
11 direction and under the supervision of the FBI. Smith was  
12 doing all these things, not just revealing what he did, but he  
13 was doing everything he could to cooperate because he wanted to  
14 get a reduced sentence. Given all that, given all the  
15 consensual calls he made to other people, why would he  
16 jeopardize all the work he did and everything he told the  
17 government about his insider trading activities at Galleon and  
18 after Galleon? Why would he jeopardize everything by falsely  
19 accusing his former boss and mentor of insider trading? Does  
20 that make any sense? It doesn't.

21 Defendant called one of his own lawyers to the witness  
22 stand to testify about how they interviewed Smith as they were  
23 preparing for Rajaratnam's defense, and the testimony was that  
24 Smith denied there was insider trading going on at Galleon at  
25 the first interview, but then admitted, during the second

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Summation - Mr. Brodsky

1 interview Smith said that he had good information from Kamal  
2 Ahmed about ICST and confirmed that Ahmed was the guy who was  
3 referred to, that he referred to in the wire call with Raj  
4 Rajaratnam regarding Vishay. Now, understand Mr. Smith did not  
5 remember everything that happened during these meetings with  
6 Mr. Rajaratnam's counsel and he testified that Rajaratnam's  
7 attorneys never asked him if there was insider trading going on  
8 at Galleon. Smith's denials of insider trading going on at  
9 Galleon during his initial interview with Rajaratnam's counsel  
10 would not be surprising. He wasn't cooperating with the  
11 government then. He wasn't testifying under oath and it would  
12 make sense if he didn't want to admit the extent of his insider  
13 trading with his former boss, mentor at a meeting with his  
14 mentor's lawyers who are defending the case and fighting the  
15 charges. What does your common sense tell you about what an  
16 uncharged but guilty person would say if asked by the attorneys  
17 of his mentor to come to a meeting and answer questions about  
18 whether he was committing crimes? Do you think he would say  
19 you're not my lawyers but I'll tell you people I committed a  
20 bunch of crimes?

21 Prior to his testimony Mr. Smith had pled guilty and  
22 on direct examination he admitted to committing crimes with  
23 Mr. Rajaratnam. How do you know he was telling the truth about  
24 his crimes with Mr. Rajaratnam? You know because of all the  
25 corroboration I talked about earlier today. You know because

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Summation - Mr. Brodsky

1 of the tape recorded -- recorded conversations completely  
2 corroborates that he got illegal information from Kamal Ahmed.  
3 You know because contemporaneous phone records show that he was  
4 talking to Kamal Ahmed the day before the ICST tip and that's  
5 when, the day after, Mr. Rajaratnam starts to buy ICST. You  
6 know because of the eyes e-mails, which are smoking guns of the  
7 defendant's participation in the conspiracy. And  
8 Mr. Rajaratnam's trading is consistent with tips from Ahmed.  
9 And think about this. Mr. Rajaratnam's lawyers never  
10 ask Smith about those eyes e-mails or about that consultant  
11 arrangement that Smith had set up with Intel's Tomlinson with  
12 Rajaratnam's approval to get inside information when they  
13 talked to him in 2010. Does that mean those e-mails do not  
14 exist, that those eyes e-mails simply don't exist? Does that  
15 mean that Intel-Tomlinson arrangement didn't exist? Of course  
16 they exist. Of course they fully corroborate Mr. Smith. And  
17 one more thing about Mr. Rajaratnam calling one of his lawyers  
18 to testify for him about the interviews of Smith. What exactly  
19 is the defense arguing? That Smith told the truth when they  
20 interviewed him? If that's true, then he's still guilty  
21 because at that interview, when they interviewed him at the  
22 seconds interview he said I got information from Kamal Ahmed  
23 and ICST, it was good information and I would have passed that  
24 on to Mr. Rajaratnam.

25 I'd like to talk a little bit about -- to summarize

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14KFRAJ4

Summation - Mr. Brodsky

1 the steps Mr. Rajaratnam made to cover up his crimes. These  
2 are critical, because they show the defendant's state of mind,  
3 that he knew what he was doing was wrong. You don't do these  
4 things if you know what you're doing is right and legal. Let's  
5 put up some of the slides. Let's put up the first one. Here  
6 are the different methods and we're going to go briefly through  
7 each of them.

8 You know that he'd tried to use the phone and avoid  
9 using e-mails. Second, you know he created e-mail trails to  
10 protect themselves you saw that on one of the recorded  
11 conversations. You know that he showed a pattern of trading,  
12 the buy-sell pattern of trading to avoid detection. You know  
13 he kept advising Chiesi and others to stay radio silent. You  
14 know that he concealed payments to his inside sources. You  
15 know that he didn't use options when it related to  
16 acquisitions, the acquisitions of companies. You know that he  
17 advised Mr. Kumar to use a prepaid phone in late 2009. And you  
18 know that he accessed brokerage accounts of an insider to make  
19 trades. Let's briefly go through those.

20 The first one, you heard this testimony from  
21 Mr. Smith. The testimony was what did Mr. Rajaratnam tell you  
22 about putting sensitive things in e-mails, and Mr. Smith said  
23 he told me not to do it. He then goes on to say that  
24 Mr. Rajaratnam said whenever someone would put something that  
25 was sensitive or potentially sensitive in written form he would

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Summation - Mr. Brodsky

1 ask you."

2 And that's why Mr. Rajaratnam says, "I will tell you  
3 why on phone," and Slattery says "okay." Why did he want to  
4 only tell him on the phone? Because this is on April 19, 2006,  
5 it's a month before there are any public rumors about ATYT and  
6 the acquisition of ATYT and he was getting the inside  
7 information from Kumar and he didn't want to write anything  
8 down.

9 Let's go to the next slide. You saw this already. We  
10 went over the call. I won't go over it again. This is it is  
11 recorded conversation between Chellam, Panu and Rajaratnam  
12 about creating an e-mail trail at Rajaratnam's direction.

13 Let's go to the next slide. This is Mr. Smith's  
14 testimony in which he described how he was told to create  
15 e-mail trails for ATYT and he says on lines 15 through 17, "I  
16 sent e-mails that gave legitimate reasons, although weren't the  
17 primary or complete motivation for the purchase of the stock to  
18 have it on the record." Now, he then goes on to describe how  
19 the reason to do it is if anybody comes back, any regulator  
20 comes back to look at the document, they're not going to know  
21 the true motivation and the defendant will be able to point to  
22 it and say those are the reasons why, the legitimate reasons  
23 why we traded.

24 Third, we talked about this already, so we'll speed  
25 through it, pattern of trading, of buying and selling.

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Summation - Mr. Brodsky

1           We'll continue on. Mr. Smith testified that  
2 Mr. Rajaratnam told him to do that on slide 233. Then there's  
3 the staying silent you saw that during recorded conversations  
4 and we already talked about that. Then slide number 235,  
5 concealing payments to insiders, inside sources. Mr. Kumar  
6 testified on lines 21 through 25 of page 391 to 392 of the  
7 transcript, around 2006, Mr. Rajaratnam began a discussion with  
8 me, saying you need to move it out of the Manju Das account  
9 into some other financial entity or other offshore situation.  
10 He said the SEC now is scrutinizing these things a lot more.  
11 Mr. Rajaratnam taking action with one of his insiders and  
12 telling him move it out of Manju Das, the SEC is getting  
13 closer.

14           Let's go to the next slide. The next slide was the  
15 conversation we already went over between Rengan Rajaratnam and  
16 Raj Rajaratnam about possibly paying the McKinsey, the new  
17 McKinsey consultant, the new Kumar, through his wife and that's  
18 when they called people scumbags and laughed about it.

19           The next slide, Mr. Smith talked about how you don't  
20 want to trade options for acquisitions, because you read the  
21 Wall Street Journal and The New York Times and the SEC often  
22 catches people trading in options illegally and that's why you  
23 don't want to do it, it's a red flag for the SEC.

24           Let's go to the next slide. Again, this is Ms. Chiesi  
25 talking about not doing any options.

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Summation - Mr. Brodsky

1 Next slide, you remember Kumar's testimony about the  
2 use of prepaid phones? He said, this is late 2009, Mr. Kumar  
3 testified Mr. Rajaratnam then told me, he just said, you know,  
4 Anil, I'm a little disappointed. There's another gentleman who  
5 used to work for me who I'm told is now wearing a wiretap and I  
6 have to be really careful. I can't believe he's doing that and  
7 betraying me. He said you should be careful now, you should  
8 when you call me, you should use prepaid calls to make phone  
9 calls. The only reason to use prepaid calls in this context,  
10 he's obviously telling Kumar, I'm giving you inside  
11 information, the phones may be tapped and I don't want use  
12 them.

13 Let's look at the next slide. Mr. Rajaratnam had  
14 access to Mr. Goel's Charles Schwab account. He proposed the  
15 same thing to Mr. Kumar to pay him back. Mr. Kumar's  
16 testimony, page 535. "Rajaratnam did propose at one stage, I  
17 was really struck by that, he proposed that he can trade on my  
18 behalf that he said, look, if you want I can. I know we were  
19 walking on the streets I think in Manhattan and he said, you  
20 know, you can give me your trading account number and code  
21 password. I can go into your brokerage account and trade on  
22 your behalf." That's what Mr. Rajaratnam did with Mr. Goel, to  
23 pay him back.

24 Now, let's go into a little bit about the charges.  
25 I'd like to turn to that and talk about information non-public

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Summation - Mr. Brodsky

1 and materiality. There are two types of charges in this case.  
2 There's a conspiracy charge with respect to each of those  
3 schemes that I went through today and there are subsequent  
4 insider trading charges. Judge Holwell will instruct you on  
5 the law and to the extent there's any inconsistency, we ask you  
6 to follow Judge Holwell's instructions, obviously. What the  
7 lawyers say during argument, what I say is not telling you what  
8 the law is. What Judge Holwell will tell you is the  
9 instruction on the law. But I expect Judge Holwell to instruct  
10 you that with respect to conspiracy the conspiracy counts are  
11 simply charges that there was an agreement between two or more  
12 people to trade based on inside information. And they took  
13 some act, any one act in furtherance of that agreement.

14 The information they conspired to trade on doesn't  
15 have to be material and it doesn't have to be all that useful.  
16 The essence of the conspiracy is the agreement. For example,  
17 take Kumar's tips to the defendant about AMD in 2008. The  
18 tapes showed that Kumar was breaching his duty to McKinsey in  
19 AMD, disclosing inside information to Mr. Rajaratnam and the  
20 defendant knew Kumar was breaching his duty and the defendant  
21 then traded on the information. The tips were also material,  
22 all right? The tips were material because we showed that, if  
23 you get the timing of the actual deal, the timing, the exact  
24 date of October 7, that's an enormous advantage over every  
25 ordinary investor. But let's assume for argument's sake and

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Summation - Mr. Brodsky

1 you know the tips are all reportings and material, but let's  
2 assume for argument's sake that the tips weren't material for  
3 AMD. The defendant is still guilty of conspiracy because  
4 materiality is not an element of a conspiracy count.

5 Now, the substantive inside trading counts are  
6 different. There the government has to prove beyond a  
7 reasonable doubt that the information was material when they  
8 went to a trade. There's a bunch of conspiracy counts and  
9 there are some trading accounts where actual trades take place.  
10 For the actual trades, the government has to prove beyond a  
11 reasonable doubt that the information was material and  
12 non-public. Let me talk first about materiality and then  
13 public/non-public. The substantive counts relate to Intel,  
14 Clearwire trading, People Support, ATI and Akamai. And I  
15 expect Judge Holwell will instruct you that information is  
16 material if it's information which a reasonable investor would  
17 have considered significant in deciding whether to buy or sell  
18 stock.

19 Now, here you know with respect to all the substantive  
20 counts that a reasonable investor would have considered the  
21 illegal tips the defendant got significant. With Intel, you  
22 know that's true because Goel provided Rajaratnam with Intel's  
23 business outlook in April of 2007, including gross margins and  
24 revenues and the entire outlook for the year and gross margins  
25 for the year, the outlook drove Intel's stock price up or down.

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Summation - Mr. Brodsky

1 A reasonable investor would want to know Intel's business  
2 outlook before the company released it to the public. That's  
3 knowing tomorrow's news today, and that provides certainty  
4 regarding earnings in a world of uncertainty when there are  
5 conflicting accounts going both ways. It's why public  
6 companies like Intel closely guard their business outlook and  
7 earnings information and it's why so many investors trade Intel  
8 stock around earnings trying to figure out what the earnings  
9 are going to be.

10 With People Support and ATI, you know that learning  
11 about an acquisition would be important to any reasonable  
12 investor before you make a decision about purchasing stock in a  
13 company. If you know it's going to be acquired in the future  
14 and you're sure of that, you get it from an insider, well,  
15 that's going to be significant in making your decision to buy  
16 or sell the stock. With Clearwire, the information that  
17 Rajaratnam received from Goel was caught on tape, and included  
18 details about equity splits, the amount of money each party was  
19 contributing, Intel's board approval, all of that is  
20 information that a reasonable investor would want to know in  
21 making a trading decision.

22 With Akamai, you know that Chiesi's tip that the  
23 company was going to guide down would be important to an  
24 investor and it might go to \$25 because it was so unexpected  
25 because people didn't know, and that guiding down drives stock

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Summation - Mr. Brodsky

1 prices.

2           How else do you know the information was material?  
3 You know it was material because it was important to the  
4 defendant's decision to trade based on the information, because  
5 you know he traded on it and he made money on it. How else do  
6 you know? The stock reacted to the news by either going up or  
7 down in a way that resulted in substantial profits based on the  
8 defendant's trading. Even the highly compensated Professor  
9 Jarrell in his theoretical world, divorced from reality, felt  
10 the tips relating to People Support, ATI and Akamai were  
11 statistically significant, but I'll tell you in a minute why I  
12 wouldn't put any stock in his views, which are completely  
13 one-sided.

14           When you're thinking about materiality and whether a  
15 reasonable investor would consider a tip would be important in  
16 deciding whether to buy or sell stock, let's take a look at  
17 some of the stock charts. Put up Government Exhibit 110 for  
18 ATI. For ATI would a reasonable investor want to know in  
19 March, in April, in May, in June, that this event is going to  
20 happen and the stock price is going to go from over here to  
21 over here? Of course.

22           Let's put the next slide up. People Support,  
23 Government Exhibit 120. Would a reasonable investor want to  
24 know in June, in July of 2008 that People Support is going to  
25 be acquired and the stock price is going to go from here all

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Summation - Mr. Brodsky

1 Rajaratnam knows Goel is getting the benefits because  
2 Rajaratnam is getting him the benefits, over \$700,000 in the  
3 brokerage account and Mr. Goel is receiving some of those  
4 benefits from Mr. Rajaratnam. For People Support it's the  
5 defendant himself who is breaching the duty and he's the one  
6 giving Mr. Goel the benefit. For Akamai, you know that Kieran  
7 Taylor was breaching the duty and giving the information to  
8 Ms. Chiesi, that's that call where Ms. Chiesi says Akamai is  
9 going to guide down and you know from that call, you can go  
10 back to and listen to it, and some of the other calls,  
11 Mr. Rajaratnam knows, he's friends with Ms. Taylor and he knows  
12 the relationship, he knows Taylor is giving those tips to  
13 Chiesi because of that friendship.

14 Now, with regard to substantive counts, let's talk  
15 about public and non-public. You also have to find with  
16 respect to the substantive counts, not the conspiracy but the  
17 substantive counts, that the information was not public. I  
18 expect you'll hear from Judge Holwell and he'll instruct you  
19 that the information isn't public simply because it appears in  
20 a newspaper. If information is more specific and more private  
21 than what appears in a newspaper, then it's not public, and if  
22 the information is not generally available and the company  
23 would not make it available in response to a request, it's not  
24 public. Now, I think it should be clear from the evidence that  
25 the information the defendant received relating to each of the

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Summation - Mr. Brodsky

1 securities wasn't public. Merely because the defendant's paid  
2 expert found news articles from the Inquirer and Tech Crunch  
3 and some rumor attributed to some anonymous source and guessing  
4 about some possible deal or earnings doesn't make it public.  
5 If the information's more reliable, more specific, more  
6 accurate than what you can get from some analyst report that  
7 are all conflicting, then the insider is giving you information  
8 that's not public.

9 Now, the defense through Mr. Jarrell's testimony and  
10 Mr. Schutte's testimony it seems to be suggesting that every  
11 illegal tip that Mr. Rajaratnam got, every single one was  
12 already public. That doesn't make any sense. It's wrong to  
13 assume that just because there's a single news story out there  
14 from Bloomberg quoting an anonymous source from Focus Magazine,  
15 which is quoting somebody else who's anonymous, has speculated  
16 about a possible deal or quarterly earnings, that that makes it  
17 public. If that were correct and there was some rumor out  
18 there that Pepsi was going to take over Coca-Cola, every hedge  
19 fund could go pay an insider at Pepsi, or an insider at  
20 Coca-Cola, pay them a lot of money just because there was a  
21 rumor out there, get the actual, real information, trade based  
22 on that information, make a ton of money at the expense of all  
23 ordinary investors and that's not the law.

24 Now, the professor didn't know the allegations well.  
25 For example, on Clearwire, he didn't know that Goel was getting

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Summation - Mr. Brodsky

1 the information and giving it to Mr. Rajaratnam regarding the  
2 billion-dollar investment and the Intel board approval, so a  
3 lot of what the professor didn't say -- he didn't understand  
4 the allegations, he didn't sit through the trial, he didn't  
5 hear all the witnesses and the evidence. So if you listen to  
6 the judge's instructions on what's public and non-public, I'll  
7 expect you'll see that the professor was just simply wrong  
8 about that.

9 Now, sitting here for the last six weeks, you know  
10 that information from insiders who knew actually what was going  
11 on on the inside behind closed doors was far more reliable,  
12 more specific and more private than these public sources. If  
13 the companies didn't make it available in response to a  
14 request, all the public company employees testified without  
15 exception, merger and acquisition information, earnings  
16 information, other corporate events, before the company  
17 announced, it would not be given out in response to a request.

18 Now, let me put up a slide that I think marks out some  
19 of the differences between public and non-public information.  
20 When you get public information from news articles and analyst  
21 reports, there are frequent rumors about most stocks, right?  
22 Rumors are often wrong. I think the professor testified about  
23 how there was a rumor that Intel was going to take over some  
24 company and that never happened. There are often rumors and  
25 there are a lot of motives for spreading rumors. What are the

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14KFRAJ4

Summation - Mr. Brodsky

1 motives? You've got competitors out there spreading rumors,  
2 you have stock manipulators spreading rumors on the internet,  
3 you have investors pushing for a certain outcome and wanting  
4 companies to be acquired, you have academics and professors out  
5 there speculating and guessing, then you just have your  
6 journalists out there who vary, obviously, in what they know,  
7 and the journalists out there are guessing and speculating.

8 Then you have anonymous sources. Most of these  
9 articles are like, "my sources say." You don't know who those  
10 sources are, you don't know where they are, what agenda they  
11 have. Sometimes the defense introduced documents from articles  
12 that had anonymous authors, you couldn't even tell who the  
13 author was behind the article. Then you had articles that  
14 relied on other articles that relied on anonymous sources. It  
15 got ridiculous. Articles from Bloomberg relying on Focus --  
16 nobody knows what Focus is -- relying on anonymous sources.  
17 Then you have conflicting accounts and everything is less  
18 specific, less accurate. You don't have dates, don't have  
19 investment amounts, don't have timing.

20 Contrast that with the insiders. You know their name,  
21 you know their job and you know what access to information they  
22 have. You know where Goel is working, you know he has access  
23 to Mr. Lenke at that time, you know he has access to the  
24 Clearwire deal. Far different from some rumor in a newspaper.

25 Mr. Kumar testified he was inside the body of the

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Summation - Mr. Brodsky

1 company. He actually knew, and you heard that from witness  
2 after witness after witness when asked to compare what's more  
3 reliable, some newspaper article or somebody on the inside who  
4 actually knows, and unanimously they all agreed, it was  
5 somebody on the inside. If you're going to get more specific  
6 information, details like timing, pricing, you're going to know  
7 the parties, who the parties are and you're going to get  
8 updates, it's far more accurate and these insiders, unlike the  
9 newspapers and so forth, they're not guessing.

10 (Continued next page)

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14K8RAJ5

Summation - Mr. Brodsky

1 from Sriram Viswanathan. He is working and running the deal.  
2 He gets details of the companies involved, the details of the  
3 equity splits, the details of the money invested. He knows  
4 Intel's board approved the deal. Compare that to the internal  
5 Galleon analyst, Naphtali Joseph, on March 25, 2008. The same  
6 time Goel is telling Mr. Rajaratnam about these intimate  
7 details of the deal, Mr. Naphtali Joseph, the outsider, says,  
8 "WiMAX spectrum holders makes me think some type of deal is  
9 possible in the near term." What does that mean? What does  
10 that mean anyway? What type of deal? "I do not have an edge  
11 on financing arrangements." What does that mean? I don't know  
12 what the equity is. I don't know which parties are involved.  
13 I don't know how much they are going to get. "And have said  
14 that is the key," the financing arrangements. "But this deal  
15 could not come together without cash infusion so I expect that  
16 to be included. Rumors are Google, Intel, Best Buy." Well,  
17 Best Buy, 100 percent wrong. Then he says, "Are involved."

18 I mean, which one is more reliable, Mr. Goel, with all  
19 these details and all this information, or this Galleon  
20 analyst, who is out on the outside guessing? I think the  
21 answer is clear. Mr. Goel.

22 Let's take one more. Put up Mr. Panu. Krish Panu is  
23 on the PeopleSupport board. He is Galleon's designee. He has  
24 got the details of the deal negotiations starting at least on  
25 June 30, 2008. He knows the Ruias are getting an offer. At

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Summation - Mr. Brodsky

1 first, it's 13 to 14 dollars in June of '08. Then it goes to  
2 \$12.25. And he knows about the timing. And compare that --  
3 well, there is absolutely nothing to compare it to because  
4 there was nothing out there. But you can compare it to any  
5 news article or anything else out there, and I think the answer  
6 is clear. You'd rather rely on the board member as to what is  
7 going on than rely on some news article.

8 Now, in addition to calling his own lawyer, in  
9 addition to calling Mr. Schutte, who had received millions of  
10 dollars into his fund eight weeks before trial and then 25  
11 million of 35 million he was managing, the defense relies on an  
12 expert and his team who received well over a million dollars  
13 for the testimony of work.

14 Now, after hearing from that professor -- and again,  
15 the government bears the burden. We have the burden to prove  
16 beyond a reasonable doubt that the defendant is guilty of all  
17 the charges. But if the defense puts on a case, it's fair to  
18 criticize and scrutinize that case. So looking at Professor  
19 Jarrell, his testimony actually supported in significant ways  
20 the government's case, and the rest of it is divorced from  
21 reality and the evidence in the case.

22 How did it support the government's case? In two  
23 ways. One, he admitted there was a lot of information all over  
24 the place, for every one of the stocks. Some positive, some  
25 negative, some neutral. Everything is out there. OK. That

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Summation - Mr. Brodsky

1 means that if you have an insider who knows the real deal, the  
2 actual details, then you have a huge advantage over everyone  
3 else.

4           Second, the professor admitted that, if you know  
5 tomorrow's news today, you have a great advantage. And he also  
6 said, in a world of uncertainty, if you have certainty, through  
7 example inside information, then you have a great advantage and  
8 you could make money. Well, that's what the defendant had. In  
9 a world of uncertainty, he had certainty because he had  
10 insiders who knew tomorrow's news today.

11           What about the rest of the professor's opinion? Well,  
12 the rest of him boiled down to basically two things. One, he  
13 talked about if the illegal tip was something positive about  
14 the stock. He always found that a reasonably sophisticated  
15 investor could have made a trade based on all that positive  
16 stuff about the stock, could have made a trade and bought  
17 stock. He also said that there was all this negative stuff out  
18 there. And if a reasonably sophisticated investor followed the  
19 negative stuff, it would have been reasonable to short the  
20 stock and go the opposite way. Great. What he basically said  
21 was a reasonably sophisticated investor, for any of one these  
22 securities, would have either bought, sold, or stayed the same.  
23 That testimony doesn't tell you anything. And second, the  
24 professor testified that Mr. Rajaratnam made thousands of other  
25 trades for which there are no allegations of wrongdoing. This

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Summation - Mr. Brodsky

1 crime, not whether there are other trades or other times in  
2 your life you did not.

3 Here the government has proven beyond a reasonable  
4 doubt that the defendant committed the charged crimes. And  
5 that's what matters.

6 Now, motive. I would like to talk about why Mr.  
7 Rajaratnam engaged in these insider trading schemes. I think,  
8 members of the jury, as you listen to the instructions, one  
9 thing you're not going to hear is that motive is an element of  
10 the crime. The government doesn't have to prove motive. Even  
11 though it's not required, the evidence is overwhelming as to  
12 why the defendant did it. Money, pressure, and the conquest.  
13 Money, pressure, and the conquest. Let's talk about money.

14 You know the defendant had hundreds of millions of  
15 dollars of his own money invested in Galleon. So your common  
16 sense tells you, the more money Galleon makes, the more money  
17 he makes. If illegal insider trading schemes would increase  
18 the amount Galleon makes, then he makes money. You also know  
19 that Galleon charged a 2 percent management fee each year for  
20 all the assets they have under management. You commit illegal  
21 insider trading, increase the number of assets under  
22 management, you make more money. You also know that Galleon  
23 charged at least a 20 percent incentive fee for all the profits  
24 that are made in each fund. So you know that by illegally  
25 increasing the size of the profits, you get a higher stake, you

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Summation - Mr. Brodsky

1 get a higher amount of money for yourself and others at  
2 Galleon.

3 Let's talk about the pressure. You know the hedge  
4 fund business is highly competitive. Mr. Schutte didn't want  
5 to admit it, but you know when you're dealing with money, and  
6 you're dealing with getting investor money, and managing that  
7 money, and keeping that money, it's enormously competitive.  
8 You heard the testimony about how many buy-side analysts are  
9 all showing up to these investor conferences trying to figure  
10 things out. That's competition, and it's competition to try to  
11 increase the assets they have under management. Nothing wrong  
12 with that. But the hedge fund world, the competition is  
13 fierce, and this trial showed that in that competitive  
14 business, the more money you make the more you can keep the  
15 money you have from investors, and the more you can attract new  
16 money. I think on one of the calls Mr. Rajaratnam was talking  
17 to Mr. Gupta and he was telling him how he wanted Galleon to be  
18 a \$10 billion fund. When you get into the billions, you keep  
19 wanting to go up. Illegal insider trading schemes help you do  
20 that. In 2008, you heard some of the testimony. Things were  
21 hard. I mean, the financial collapse was awful. And Mr.  
22 Rajaratnam became increasingly desperate for inside information  
23 to beat out his competition and stem the tide of possible  
24 withdrawals of investor money.

25 Finally, I want to talk about the conquest. You heard

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Summation - Mr. Brodsky

1 in Mr. Rajaratnam's own voice that he thought making a winning  
2 trade, beating out the rest of Wall Street, no matter the  
3 means, was a conquest. He said it himself in one of the calls  
4 with Chiesi, that he got inside information, he was able to  
5 beat the market and make money, and it thrilled him. He called  
6 it a conquest. And that's what it became for him. It wasn't  
7 always about money, although that's certainly part of why he  
8 did it. It was about being on top. It was about beating  
9 everyone else. And the evidence showed that he was willing to  
10 engage in illegal schemes to make these conquests over and over  
11 and over again.

12 The laws against insider trading are designed to make  
13 sure that the investing public isn't cheated. The stock market  
14 is supposed to be an even playing field. Hedge fund managers,  
15 even professional ones, with lots of resources and sitting on  
16 the top at their disposal of billion of dollars, are not  
17 permitted to gain an unfair advantage by using secret  
18 information from consultants at consulting firms like Kumar at  
19 McKinsey, from corporate executives like Goel at Intel, from  
20 board members of public companies like Rajat Gupta at Goldman,  
21 or from investment bankers like Kamal Ahmed at Morgan Stanley,  
22 and then make millions of dollars off of that information at  
23 the expense of the ordinary investor.

24 The defendant knew the rules, but he didn't care. The  
25 tapes showed he didn't believe the rules applied to him. He

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Summation - Mr. Brodsky

1 decided to cheat, and cheating became part of his business  
2 model. It was like reading the analyst report, calling up an  
3 insider like Kumar, Goel, Gupta, asking for material nonpublic  
4 information, getting that secret information and trading on it,  
5 and exchanging it with other traders became part of his  
6 routine. He did it so often, as the calls showed, that he was  
7 arrogantly matter of fact about it on the calls. He took  
8 advantage of honest investors who bought and sold stock without  
9 the benefit of inside information. In short, the evidence  
10 shows in this case the defendant acted and believed he was  
11 above the law.

12 Members of the jury, consider all the evidence before  
13 you. Consider what the defendant said in his own words on  
14 those recordings, about the inside information he received,  
15 what he did with it, and how he tried to cover it up. All of  
16 the evidence points to the firm conclusion that he knowingly  
17 and intentionally schemed to get inside information. He and  
18 Kumar engaged in a scheme, whereby Kumar gave him inside  
19 information in exchange for money and friendship. He and Goel  
20 engaged in a scheme, whereby Goel gave him inside information  
21 because of their friendship. He and Chiesi engaged in a scheme  
22 where they exchanged inside information with each other. And  
23 he and other Galleon employees, like Panu and Chellam and his  
24 brother Rengan and Smith, engaged in schemes to obtain inside  
25 information. And he and Khan engaged in a scheme where they

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1 exchanged inside information with one another. But no one is  
2 above the law.

3 Based on all of this overwhelming evidence, there is  
4 only one verdict consistent with the evidence. It is the just  
5 verdict. It is the verdict that the defendant is guilty on all  
6 counts.

7 THE COURT: Thank you, Mr. Brodsky.

8 That concludes the first argument by the government in  
9 closing. We will take our afternoon break and then Mr. Dowd  
10 will begin the closing argument from the defense.

11 (Jury exits courtroom)

12 THE COURT: 15 minutes.

13 (Recess)

14 (Jury present)

15 THE COURT: Mr. Dowd, would you begin?

16 MR. DOWD: Thank you, your Honor.

17 Good afternoon, ladies and gentlemen.

18 Ladies and gentlemen, a month and a half ago I gave an  
19 opening statement to you on behalf of Mr. Rajaratnam. And in  
20 my opening statement, I made a promise to you about what the  
21 defense was going to show in this case. I promised you that we  
22 would show you the complete picture of what happened and not  
23 the tiny sliver that the government would present. Even though  
24 the defense has no burden in this case, we kept that promise to  
25 you. I told you we were going to show you the full picture and

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Summation - Mr. Dowd

1 Schutte showed you, documents the government admits are  
2 authentic.

3 I also told you the government was going to rely on  
4 snippets of recorded conversations taken out of context, and  
5 that's exactly what they did. But we have shown you the  
6 factual context that you need to evaluate all the tapes the  
7 government played. We have shown you the public information  
8 and the Galleon analysis that Raj relied on when he made the  
9 trades in issue in this case. We have shown you times when Raj  
10 had taken a position before the recorded conversation. We have  
11 shown you other times when Raj didn't trade at all, and when he  
12 traded in the opposite direction of what was communicated on  
13 the calls.

14 I told you the government was going to ignore what  
15 things are like in the real world. I told you the government  
16 was going to rely on fictions and plights of imagination to  
17 make its case, and that is exactly what it has done.

18 The government's case rests on the fictional idea that  
19 information can't ever become public until a company issues a  
20 press release about it. But we have shown you that in the real  
21 world, information can become public in all sorts of ways,  
22 whether the company wants it or not and whether the company has  
23 made a formal announcement or not. And the government can't  
24 stand it. In the real world, there are billions of people  
25 talking to one another. This is the media age, the age of the

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1 Internet, blogs and e-mail and instant communication. In the  
2 real world, public companies are operating and functioning and  
3 communicating in public, with the press, with investors, with  
4 competitors, with customers, with distributors and with  
5 government agencies. But in the government's imaginary world,  
6 the only way to find out what is happening in Intel is to wait  
7 for Intel to hold a press conference. That's ridiculous. It's  
8 a fiction and you cannot convict Raj based on a fiction.

9 The government tries to say that all this public  
10 information we have shown you is just speculation, like it is  
11 worthless, like it doesn't count. But let's get real about  
12 something. If the information is correct, then it's not  
13 speculation and it's not rumor, it's news. And that's how  
14 things become public in the real world.

15 Remember, Raj's business is all about predicting the  
16 future and anticipating the market. It's all about gathering  
17 all information available, analyzing it, and placing a bet on  
18 where a stock is going to go. It's about distinguishing  
19 between accurate predictions and inaccurate predictions.

20 The government's case also rests on the fictional idea  
21 that Raj is supposed to know or is to assume that the people he  
22 is talking to are giving out information they are not supposed  
23 to give out, but the evidence shows that's not the case either.  
24 In the real world, it is Raj's job to ask questions and gather  
25 information. That's his duty to his investors, and Raj is

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1 qualify for a reduced sentence under their plea agreements. We  
2 have shown you where the cooperators aren't telling you the  
3 truth. We have shown you specific lies that each one of them  
4 have told you. We have given you the facts you need to  
5 evaluate these government witnesses and their testimony. And I  
6 am confident you will agree with me their testimony is  
7 unreliable and worthless.

8 Ladies and gentlemen, what you have seen in this  
9 courtroom over the last month and a half is the American system  
10 of justice at work. What you have seen is how our system of  
11 justice seeks the truth. It seeks the truth by giving both  
12 sides an opportunity to present evidence. It seeks the truth  
13 by giving both sides an opportunity to challenge the other  
14 side's evidence. You saw us challenge the government's  
15 evidence and the government's evidence didn't hold up. You saw  
16 how the cooperators' prepackaged testimony fell apart on  
17 cross-examination.

18 You remember Anil Kumar finally blurted out the truth  
19 about his relationship with Mr. Rajaratnam and admitted that  
20 they never had an agreement to commit insider trading, when he  
21 declared, no, and I never would have done that. You remember  
22 when Rajiv Goel said there was no nexus between the loan he  
23 received from Raj and the information he supposedly provided.  
24 Remember when Adam Smith admitted that he pled guilty because  
25 the government threatened, even though he told this court

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1 exactly the opposite under oath at his plea. They went off  
2 script, ladies and gentlemen. That's what happens on  
3 cross-examination.

4 Raj has the constitutional right to confront and  
5 cross-examine these witnesses, and we did. That's what happens  
6 in this temple of justice, in the light of day, in a public  
7 courtroom, with a neutral judge, and 12 good men and women  
8 sworn to be fair. That's you. Now it's your turn. You heard  
9 the evidence, you heard the arguments from both sides, you have  
10 given us a lot of your time, and I can't tell you how grateful  
11 Raj is for your attention, patience and service.

12 This has been a long case and a complicated case. You  
13 heard a lot of evidence. And now you have the serious  
14 responsibility, and I know how serious you will take it. I am  
15 confident that after you consider all the evidence and apply  
16 the law to the evidence as Judge Holwell instructs you, you  
17 will find Raj not guilty of all the charges against him, and  
18 you will vote to acquit on every count.

19 Ladies and gentlemen, Judge Holwell is going to  
20 instruct you on the law very soon. It is important that you  
21 listen to Judge Holwell's instructions very carefully as Judge  
22 Holwell tells you the rules that you need to apply as you  
23 decide whether Mr. Rajaratnam is innocent or guilty of the  
24 charges against him.

25 Let's talk about the rules you're going to hear from  
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1 Judge Holwell. First, Mr. Rajaratnam is presumed innocent. He  
2 starts with a clean slate and he bears no burden of proof at  
3 all. Your duty is to acquit Mr. Rajaratnam if you conclude  
4 that the government hasn't proven its case. The government  
5 bears a very heavy burden of proof. You cannot convict Mr.  
6 Rajaratnam unless the government proves he is guilty beyond a  
7 reasonable doubt. It must prove beyond a reasonable doubt Mr.  
8 Rajaratnam committed each and every element of the charged  
9 crimes. If you conclude the government hasn't carried its  
10 burden of proof on every element beyond a reasonable doubt, it  
11 is your duty to acquit Mr. Rajaratnam and find him not guilty.

12 It's important that you test the evidence against each  
13 and every element of the charged offenses because this case  
14 concerns a kind of activity, stock trading, that is perfectly  
15 legal unless every single element of the insider trading  
16 offense is proved beyond a reasonable doubt.

17 Insider trading is not like other crimes you might be  
18 more familiar with because it involves an activity of trading  
19 stock which is perfectly legal in most circumstances. Insider  
20 trading is not like drug dealing because drug dealing is always  
21 illegal, whereas trading in stocks is almost always legal.  
22 Trading in stocks only becomes illegal when a whole  
23 constellation of facts come together to create the offense of  
24 insider trading. The government must prove every element of  
25 that constellation of facts beyond a reasonable doubt in order

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1 for you to convict Mr. Rajaratnam. So you must evaluate the  
2 evidence in light of the legal elements very carefully.

3 Let me be blunt. The government is assuming that you  
4 will not scrutinize its elements closer. The government is  
5 assuming you will not ask yourself whether it has carried its  
6 burden of proof beyond a reasonable doubt on every element. It  
7 is relying on that because it knows it hasn't proved its case.  
8 That's why it's so important that you scrutinize the evidence  
9 and ask yourself whether the government has really proven every  
10 element of the offenses beyond a reasonable doubt. And I  
11 submit to you they have not.

12 One of the most important things the government has to  
13 prove beyond a reasonable doubt is the information at issue in  
14 this case was not public. As Judge Holwell will instruct you,  
15 information is nonpublic if it was not available to the public  
16 through such sources as press releases, SEC filings, trade  
17 publications, analyst reports, newspapers, magazines,  
18 television, radio or word of mouth. Information is public if  
19 it's known outside the company and available for people to find  
20 it if they want to find it.

21 Let me make sure this is clear. It is the  
22 government's burden to prove beyond a reasonable doubt that the  
23 information at issue in this case was not public. It is not  
24 Mr. Rajaratnam's burden to prove to you that information was  
25 public even though we have done that. It is the government's

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1 burden to prove to you the information was not public, and it  
2 must prove that information was not public beyond a reasonable  
3 doubt.

4 This is an important point because the government has  
5 not even tried to prove the information in its case was  
6 nonpublic. Instead it has focused on something else. It has  
7 focused on whether the information was, quote unquote,  
8 confidential. They can't prove that the information was  
9 nonpublic so they want to make the case about something else.  
10 That's why you heard so much about this information being  
11 confidential under various corporate policies, but that's just  
12 a straw man.

13 Confidential and nonpublic are not the same thing.  
14 Information that a company considers confidential under its  
15 internal policies and information which is nonpublic within the  
16 meaning of the law are two totally different things.  
17 Companies' internal policies are not the law. Every company  
18 has a different definition of confidential. The law only  
19 restricts trading information that is actually nonpublic. The  
20 law allows you to trade on information that a company considers  
21 confidential if that information is public, and it can be both.  
22 In fact, the government's own witnesses testified that  
23 information can be confidential and not necessarily be material  
24 or nonpublic. That's what Peter Phan testified. That's what  
25 Owen Keith testified. To be clear, information may be public

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1 and can still be considered confidential by the companies.

2 We have proved to you that the information in this  
3 case was public regardless of whether it was considered  
4 confidential. For example, Intel may consider it confidential  
5 under its internal policies that it is considering an  
6 additional investment in Clearwire. But if the information is  
7 in the Wall Street Journal, it's public regardless of how Intel  
8 would prefer the information be treated. And AMD may consider  
9 it confidential under its internal policies that it is  
10 partnering with Mubadala. But if it's already known in the  
11 industry, then the information is public regardless of how AMD  
12 would prefer the information be treated. Confidential and  
13 nonpublic are not the same thing.

14 The government cannot prove that this information was  
15 nonpublic so it has tried to prove something else. This is an  
16 example of the government relying on fiction to mislead you.  
17 The fiction is that everything that goes on inside a company is  
18 confidential under these policies until a company issues a  
19 press release about it. But in the real world, information can  
20 become public whether the company wants it or not. In the real  
21 world, information can become public in all kinds of different  
22 ways. That's what Judge Holwell is going to instruct you.

23 It can be public by being reported in the newspaper.  
24 We saw an example of that with eBay. Bloomberg News reported  
25 that eBay plans to lay off 10 percent of its work force weeks

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1 company representatives and investors, such as on analyst days  
2 or during one-on-one meetings. We showed you an example of  
3 that with AMD's acquisition of ATI, where AMD's CEO, Hector  
4 Ruiz, goes out talking to analysts about the deal as part of  
5 regular biz before either company made an official  
6 announcement. We showed you another example of that with  
7 Intel's investment in Clearwire, where Intel was touting the  
8 plan at its analyst day conference weeks before the  
9 announcement.

10 It can even become public through rumors and chatter  
11 and speculation in the marketplace, which results in the  
12 information becoming impounded into the stock price. That's  
13 something our expert witness, Professor Jarrell, talked to you  
14 about. And that's something we showed you with AMD's  
15 asset-light restructuring, which was so widely expected that by  
16 the time it was officially announced in October 2008, AMD's  
17 stock price didn't react at all and continued its downward  
18 slide for the rest of the year. That's what impounded means.  
19 The information was already reflected in the stock price and  
20 the market didn't care when the company finally issued its  
21 press release.

22 We have shown you that information at issue in this  
23 case became public in all these different lights, in newspapers  
24 and trade publications, published analyst reports, on the  
25 Internet, through company communications with the market on

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1 analyst days, one-on-one meetings with analysts, through  
2 chatter and speculation of the marketplace. It was never our  
3 burden to prove this information was public, but we have proved  
4 it. And the government hasn't even tried to prove that it  
5 wasn't public. For that reason alone you must acquit.

6 And keep in mind all the instances where the  
7 government hasn't even proved to you what the substance of the  
8 alleged tip was. All the instances where the government  
9 witness testified, I told Raj something, but I don't remember  
10 what it was. Because if you don't know exactly what was  
11 supposed to have been said to Raj, how can you evaluate whether  
12 the information was public or not? You can't. The government  
13 hasn't proven its case.

14 The government must also establish the other elements  
15 of insider trading beyond a reasonable doubt. It must prove  
16 that the information was material. Material simply means very  
17 important or very significant. But as you assess whether a  
18 particular piece of information was important or significant,  
19 make sure you keep in mind all of the other information that  
20 was available at the time, because a particular piece of  
21 information might not be material if the same information or a  
22 lot of similar information was already available.

23 For example, let's say somebody tells you that the  
24 parties to a deal have shaken hands. That information might be  
25 material if it was the only piece of information out there.

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1 But it's not material if it's already public and you already  
2 know that the parties have said they are implementing the deal.  
3 That's what happened with the AMD asset-light deal.

4 You also need to ask yourself if the information is  
5 specific enough to be material, because as Judge Holwell will  
6 instruct you, information isn't material unless it's specific  
7 enough to tell you something meaningful about the stock. For  
8 example, if someone tells you that a company is going to  
9 receive a term sheet in the next few days, that's not material.  
10 Because if you don't know what the terms are, then the term  
11 sheet isn't material. Or someone tells you the company is  
12 losing two bucks a share, earnings per share, it tells you in  
13 the middle of the quarter, a month before the quarter closes,  
14 and two months before the quarterly earnings are announced,  
15 that information is not material either because it's premature.  
16 It's too early to tell what the earnings are going to be.

17 And ask yourself if the government has even put on any  
18 evidence at all about what the alleged tip was, if you know the  
19 substance of the information communicated to Raj. Because if  
20 you don't, you can't assess whether the information was  
21 material and the government hasn't proven its case.

22 So ask yourself those things when you assess the  
23 information in this case. Was it significant in light of the  
24 total mix of information out there? Was it specific enough to  
25 be material? Has the government proven it was material beyond

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1 a reasonable doubt?

2 Another element that the government must prove beyond  
3 a reasonable doubt is the alleged insider trading has breached  
4 a fiduciary duty by disclosing the information for a personal  
5 benefit. It's not enough for the government to show that  
6 information came from an insider. It's not enough for the  
7 government to show the company considered the information  
8 confidential. The government must also prove that the insider  
9 personally received something of value for the information.  
10 And it's important that you test the government's evidence  
11 carefully on this element because the government hasn't even  
12 tried to show that many of the insiders in this case acted for  
13 personal gain or that they received anything of value in return  
14 for the information that they disclosed.

15 For example, the government hasn't shown or even tried  
16 to show that Rajat Gupta, Kamal Ahmed or Kieran Taylor received  
17 anything of value in return for their alleged tips. Even when  
18 the alleged insider did receive something of value, at some  
19 point in time the government hasn't shown that they received a  
20 thing of value in return for the alleged tips.

21 For example, the government claims Anil Kumar provided  
22 Mr. Rajaratnam with tips about business objects of AMD and eBay  
23 and Spansion in 2007 and 2008. But they have presented no  
24 evidence that Mr. Kumar received anything at all from these  
25 supposed tips, and Kumar admitted that he received nothing.

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1 Rajiv Goel admitted on the stand that there was no  
2 nexus between the money he received from Raj and the  
3 information he supposedly provided.

4 The government must also prove beyond a reasonable  
5 doubt that Raj traded on the basis of material nonpublic  
6 information. So it's important that you ask yourself whether  
7 the government has proven beyond a reasonable doubt that Raj  
8 traded on the basis of the alleged tips and not based on other  
9 information. And the evidence shows that Mr. Rajaratnam traded  
10 on the basis of public information, Galleon research, not on  
11 the basis of any of these alleged tips. How do you know for  
12 sure? For instance, you could tell that Raj did not trade on  
13 the basis of a supposed tip if he had already taken a position  
14 before receiving the tip. Like with Akamai, Polycom, Goldman  
15 Sachs, AMD, where Raj had already taken his position in the  
16 stock before the alleged tips.

17 You also have to consider all of the other information  
18 Raj had when he made a trade. The government has to prove  
19 beyond a reasonable doubt that Raj did not rely on that  
20 information. He relied on the alleged tip instead.

21 For example, on Google, the government has to prove  
22 beyond a reasonable doubt that Raj did not trade on the basis  
23 of Steve Granoff's analysis setting a target price for the  
24 stock.

25 On Goldman Sachs, the government has to prove that Raj

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1 did not trade on the basis of the analysis of his legislative  
2 consultant who was reporting on the progress of the TARP  
3 legislation.

4 Finally, the government must prove beyond a reasonable  
5 doubt that Raj acted knowingly and willfully. And that means  
6 the government must prove beyond a reasonable doubt that Raj  
7 knew every one of the elements I just went through at the time  
8 he placed his trade, and he acted with the intent to commit the  
9 crime of insider trading.

10 As to the conspiracy counts, the key element the  
11 government must prove is the agreement to commit the crime of  
12 insider trading. If you find that Raj and his alleged  
13 co-conspirator did not have an agreement to commit insider  
14 trading, then you must acquit. For example, it's not enough  
15 for you to find that Raj had an agreement with someone to seek  
16 out information and then trade stock based on that information.  
17 That's not the crime that Raj is charged with. That's not a  
18 crime at all. It is legal to seek out information and trade  
19 stock based on it. That's Raj's job. To convict you must find  
20 he actually agreed with someone else to engage in the crime of  
21 insider trading.

22 That's why all the elements of the insider trading  
23 counts are also relevant to your consideration of the  
24 conspiracy counts as well. Because if Raj didn't trade the  
25 stock, it shows there was no conspiracy to engage in insider

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1 trading. And if the information at issue was public, then it  
2 shows that there was no conspiracy to commit insider trading  
3 because insider trading can only occur if the information is  
4 nonpublic. And if the insider didn't act for personal benefit,  
5 then it shows there was no conspiracy to commit insider trading  
6 because insider trading can only occur if the insider acted for  
7 personal benefit.

8 Finally, as you consider the evidence, keep in mind  
9 what Raj did for a living and what Raj's duties were. Focus on  
10 the real world, not the imaginary world the government has  
11 created here. In the real world, Raj's job was to manage other  
12 people's money. People and institutions entrusted him with  
13 their money. People entrusted Raj with their retirement  
14 savings, charities and universities entrusted Raj with their  
15 endowments, and Raj made sound and smart decisions about how to  
16 invest billions of dollars of other people's money. This is a  
17 serious responsibility and it creates serious duties to the  
18 people who entrusted Raj with their money.

19 What duties did Raj have? He had a duty to ask  
20 questions. He had a duty to conduct research. He had a duty  
21 to review his analyst reports. He had a duty to talk to  
22 company representatives just as all analysts do. He had a duty  
23 to take advantage of attractive investment opportunities for  
24 his clients. And Raj had a duty to ask questions and a duty to  
25 act on the answers he got. In fact, that's what the

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1 Kumar, Rajiv Goel and Adam Smith testify for days on end.  
2 That's what the prosecutor called them here to do, and that's  
3 what they did. But make no mistake. In addition to everything  
4 else I just went through, you must believe the testimony of  
5 Anil Kumar, Rajiv Goel and Adam Smith in order to convict Mr.  
6 Rajaratnam.

7 The government has not proven its case and you cannot  
8 convict unless you believe the word of Anil Kumar, Rajiv Goel,  
9 and Adam Smith. If you don't believe these three men, you must  
10 acquit. And you can't believe a word these men said. We have  
11 shown you that and we have proven that. We are going to go  
12 back through the proof in detail. We have proved to you that  
13 every one of those three men lied. We have proved that they  
14 lied inside this courtroom, and we have proved they lied  
15 outside this courtroom.

16 We have proved they are getting a free pass from the  
17 government for their own crimes in return for the testimony  
18 against Raj. That's why they are here. That's why they said  
19 all these things. Because the prosecutors hold the keys to the  
20 jailhouse for these three men. They might spend 25 years in  
21 prison and they might not spend a day. None of them has been  
22 sentenced yet. And the prosecutors decide whether the  
23 government is going to help them at sentencing or not.

24 You heard a lot of pious testimony about how all their  
25 plea agreements require is for them to tell the truth. Let's

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1 get real. Who decides whether they have told the truth? Who  
2 decides whether their testimony in this case amounts to  
3 substantial assistance necessary to get some help in  
4 sentencing? The prosecutor does. If any of those men had  
5 gotten up here and said Raj didn't do it, you think they would  
6 be getting any help with their sentences? You think the  
7 prosecutor will alert the sentencing judge to their substantial  
8 assistance? Of course not. They are not being rewarded for  
9 telling the truth. You know what the government's view of the  
10 truth is, you know what these men had to say in order to  
11 satisfy the prosecutors, and you know what kind of pressure the  
12 government has put on these men. They have been threatened  
13 with a decades long prison sentence and promised a chance of a  
14 much shorter sentence. Adam Smith was specifically threatened  
15 he would never see his little boys again.

16 Ladies and gentlemen, let me be blunt. Anil Kumar,  
17 Rajiv Goel and Adam Smith testified the way they have testified  
18 because they have been coerced by the government. It's not  
19 pretty, but it's that simple.

20 Let's talk about Anil Kumar. It was some time ago,  
21 but I am sure you will remember. The first words Mr. Streeter  
22 said to you during his opening statement were greed and  
23 corruption. Then the government called Anil Kumar, who might  
24 be one of the greediest and most corrupt people you have ever  
25 met in your life, a man who made millions of dollars a year but

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Summation - Mr. Dowd

1 squirreled away millions more in offshore accounts to avoid  
2 paying his taxes, a man who giggled his way through testimony  
3 about all the times he lied and cheated his friends and his  
4 business partners and the IRS.

5 (Continued on next page)  
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Summation - Mr. Dowd

1 MR. DOWD: You think Anil Kumar was funny? I didn't.  
2 You should be offended that the government is asking you to  
3 believe Anil Kumar, because Anil Kumar might be the most  
4 dishonest person you've ever met in your life.

5 Let's go over the lies Kumar told in this courtroom  
6 before you under oath. Remember Mindspirit? You remember that  
7 between 2003 and 2004, Kumar received consulting payments from  
8 Galleon through a company called Pecos? Kumar told you that  
9 Pecos setup was Raj's idea. Kumar told you that Raj had to  
10 tell him to send the money to Pecos and how to do it because  
11 Kumar didn't know how to do it. Kumar also invested in Galleon  
12 under the name of his housekeeper, Manju Das, and he again told  
13 you that was Raj's idea and Raj made him do it.

14 Now, let's just stop right here. We're talking about  
15 a grown man who is a senior partner of McKinsey, the largest  
16 consulting firm in the world, and he gets on the stand and says  
17 Raj made me do it. That might be what a third grader would  
18 say, but not a grown man and it defies common sense and that's  
19 nuts.

20 All that testimony was false and we proved it was  
21 false because we proved Kumar had done both these things for  
22 greed. Years before, Kumar consulted for Galleon through  
23 Pecos. He also consulted for another company, Info USA,  
24 through a company called Mindspirit. Kumar testified that he  
25 founded Mindspirit with his McKinsey partner Rajad Gupta, and

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Summation - Mr. Dowd

1 we showed you the incorporation documents and they're in your  
2 Kumar binders, and years before Kumar invested in Galleon  
3 through the name of his housekeeper, he invested in Info USA in  
4 the name of his wife, Malvika. Mindspirit and Malvika weren't  
5 Raj's idea. And Pecos and Manju Das weren't Raj's idea either.  
6 Kumar didn't need Raj to tell him how to do this. Kumar had  
7 done it himself years before without any involvement with Raj  
8 and he knew exactly what he was doing and exactly how to do it,  
9 but when the government came knocking, Kumar played dumb, he  
10 blamed it all on Raj.

11 Remember, Kumar denied all of what I just said on the  
12 witness stand. This is what he said. Joe, could you pull up  
13 day six, pages 742 to 743 starting at line 25?

14 "Q. But you did consulting work, correct?

15 "A. Not under Mindspirit, sir."

16 But then I showed him the consulting contract between  
17 Mindspirit and Info USA. Joe, pull up defense Exhibit 3934.  
18 This is it, the consulting contract between Mindspirit and Info  
19 USA. And it says, "This is to confirm that Mindspirit LLC will  
20 provide advice and guidance to Vin Gupta, CEO of Info USA on  
21 strategic issues associated with the growth and sustainability  
22 of the company. Mindspirit will be reimbursed for  
23 out-of-pocket expenses associated with providing such advice,  
24 also receive 200,000 options to be vested over four years in  
25 the strike price of \$7 per share per its vesting policy."

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Summation - Mr. Dowd

1           Then it's signed for both Info USA and Mindspirit and  
2 it's dated April 18, 2001. And I showed this consulting  
3 contract to Kumar. This is what he said: Day six, page 744,  
4 line 11, Joe. "This was never executed," he said under oath.  
5 "Mindspirit never received a single dollar from Info USA not  
6 one cent, not one dollar from Mindspirit. This agreement was  
7 torn up, sir."

8           Next I showed him the documents reflecting the award  
9 of 100,000 options, Kumar's half of the contract amount that he  
10 received from Info USA on the very day this contract was  
11 signed. But he didn't receive the options directly. He  
12 received them through his wife.

13           Joe, Defense Exhibit 3935. This is the award of  
14 100,000 Info USA stock options to Malvika Kumar dated April 18,  
15 2001, the very same day as the consulting contract. The  
16 options are awarded at the \$7 strike price exactly as the  
17 consulting contract. So who does Anil Kumar think he's  
18 kidding?

19           He testified that Mindspirit wasn't a consulting  
20 company, it didn't do any consulting. And I showed him a  
21 signed consulting contract between Mindspirit and Info USA.  
22 Then he said the agreement was torn up and he never received  
23 the 100,000 shares promised under the contract. The very same  
24 day Kumar received half of the payment, 100,000 shares paid to  
25 his wife. He was just lying. He was lying right here in this

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Summation - Mr. Dowd

1 Raj didn't dictate that letter. And Raj didn't tell Kumar to  
2 backdate it. And we're able to show these things weren't true  
3 because we found the records in Galleon proving that Kumar  
4 faxed the completed letter to Galleon the very same day,  
5 October 1, 2003.

6 Joe, if you'll be kind enough to pull up Defense  
7 Exhibit 4481 at page 1. This is the fax record that we showed  
8 to Anil Kumar. This is the very same letter he says was  
9 written weeks after the date printed. But there at the top is  
10 the fax transmission line and it shows that it was faxed to  
11 Galleon on October 1, 2003, which is the very same day as the  
12 date of the letter. And that wouldn't be possible if this  
13 letter were written weeks later. Kumar just made it up, and he  
14 made it up in front of you under oath. He lied to make Raj  
15 look dirty, and he never would have told the truth if we hadn't  
16 found this record in the Galleon files and showed it to him.

17 Let's talk about Manju Das. You remember Manju Das.  
18 Das was Kumar's housekeeper. She lived with Kumar and his  
19 family in California. She came to the United States with them  
20 in 1999. You know that because Kumar admitted all of it and  
21 because we showed you Das' visa application. Kumar used Das'  
22 name for Galleon investments. He testified that using Manju  
23 Das' name was Raj's idea. He testified that Raj knew Manju Das  
24 was a housekeeper. He testified he knew she lived in  
25 California. He testified he suggested using Das' name on the

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Summation - Mr. Dowd

1 account. Those were all lies and we proved to you that they  
2 were lies. You know they were lies because we proved to you  
3 that Kumar lied to Galleon and to Galleon's fund manager,  
4 Morgan Stanley Fund Services, about who Manju Das really was  
5 and where Manju Das really lived and that's not something that  
6 Kumar would have to do if Manju Das was Raj's idea. That  
7 doesn't make any sense. Kumar didn't just lie a little, he  
8 lied a lot. He lied to Galleon and Morgan Stanley over and  
9 over again about who Manju Das was and where Manju Das lived in  
10 order to make it appear that she was a resident of India,  
11 eligible to invest in Galleon's offshore funds.

12 Kumar lied on the initial subscription agreement that  
13 he provided to Galleon. Joe, if we could have Defense Exhibit  
14 4481S at page 2. This is a subscription agreement. You  
15 remember it. Third page, Kumar has filled in supposedly Manju  
16 Das' address, but he didn't fill in her real address. Her real  
17 address was in California where she lived with Kumar as  
18 reflected on the visa form. Instead of putting her real  
19 address he put his in-law's address in New Delhi. You notice  
20 in all these documents we redacted the specific address to  
21 spare the in-laws any hassle back in India, but Kumar admitted  
22 it was his in law's address and he did it to make it appear to  
23 Galleon that Das lived in India when she really lived in  
24 California.

25 Kumar admitted all that on the stand, but not at

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1 first. At first he lied. You remember that. You remember how  
2 he testified that this was Das' base in India, where she kept  
3 her belongings in the garage. Pull up day 5, Joe, page 648,  
4 line 22.

5 "Q. You testified that this is the address you wrote as  
6 Ms. Das' address in India, correct?

7 "A. Yes, sir.

8 "Q. That testimony was false, wasn't it?

9 "A. No, sir. That address is where she keeps her, some of her  
10 belongings in India. It is her Delhi base."

11 That testimony is false. Kumar eventually admitted  
12 that. But he didn't admit it until we buried him in a mountain  
13 of phony documents he created to cover up the lie he told to  
14 Galleon on his first subscription agreement.

15 2008 Kumar transferred the money in Manju Das'  
16 accounts to an account held by a Swiss company called Ambit.  
17 He testified Raj told him to transfer the funds because Galleon  
18 was coming under scrutiny by the SEC. That wasn't true. Kumar  
19 didn't move the Manju Das accounts because of the SEC, he moved  
20 them because Galleon and Morgan Stanley were demanding proof  
21 that Das really lived abroad.

22 Let's look at defense Exhibit 1898. This is the first  
23 of those communications. Begins with an e-mail from Leona  
24 Murphy at Morgan Stanley to Mr. Shareen at Galleon on May 21,  
25 2008. You'll notice who is not on this e-mail. Raj. This is

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1 an e-mail to Kumar and Kumar responds. "Thanks, Shareen, let  
2 me look at this and see what can be done. May be tricky."  
3 Certainly was tricky. The tricks were all Kumar's and it  
4 started with this next e-mail to Shareen where he laid out his  
5 elegant solution to the Manju Das predicament.

6 Joe, could we have Defense Exhibit 1915? This is  
7 Kumar's e-mail back. "Shareen, I spoke with adviser overseas  
8 on this matter." He admitted the advisor was list lawyer  
9 Ashley Sutton. "He states the best solution is to in fact have  
10 Manju Das assign and direct the holdings with Galleon to an  
11 offshore entity, in this case Ambit. This way there are many  
12 benefits. A, from a Morgan Stanley Funds Services perspective,  
13 they should not care if an LP," meaning limited partner,  
14 referring to Manju Das, "sold their stake to another party for  
15 whatever consideration, all they may do is ask for a transfer  
16 form. B, this entity over which you will have sole holdings  
17 will be Ambit, so everything gets consolidated into Ambit which  
18 will be the vehicle for all future investments. I will call  
19 you as soon as I wake up to discuss. It's the most elegant  
20 solution to the predicament and hopefully one that will require  
21 not too many documents. Typically a fund will have a transfer  
22 form or something of that nature to show the transfer of assets  
23 from one entity to another. Please do not do anything about  
24 this yet or copy this to anyone. Bottom line is to avoid  
25 redemption of the funds from Manju's Galleon account back into

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Summation - Mr. Dowd

1 a bank account in her name for immediate reinvestment back into  
2 Galleon. That would be a painful exercise."

3 There you have, ladies and gentlemen, Anil Kumar's own  
4 explanation of why he transferred the Manju Das accounts to  
5 Ambit. It had nothing to do with the SEC. It had nothing to  
6 do with Raj telling him to move the accounts. He transferred  
7 the accounts because Galleon and Morgan Stanley demanded proof  
8 that Das lived in India. Transferring the accounts was the way  
9 to avoid having to come up with a non-existent proof of Manju  
10 Das' foreign residence. The elegant solution didn't work. It  
11 blew up in Kumar's face because Galleon, Morgan Stanley  
12 demanded proof of Das' address in order to complete the  
13 transfer.

14 Joe, will you pull up Defense Exhibit 2190. That's  
15 what this e-mail from Shareen to Kumar says. "Anil, in order  
16 for Morgan Stanley Fund Services to complete the July transfer  
17 they need a W9 completed and two proofs of address from Manju  
18 Das." Kumar freaked out. He doubled down on his lies.

19 Joe, pull up Defense Exhibit 2193R. This is Kumar's  
20 response to Shareen. "Manju Das comes from a village in the  
21 remote areas of Bengal. It's not customary to have utility or  
22 water bills in these areas. The permanent address as noted in  
23 her passport is in that district and that is used by all  
24 authorities as proof of address. Her current address is in New  
25 Delhi also noted on the passport. This is the address to which

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1 her mail and Galleon statements go. In India a notarized copy  
2 of the paper with current permanent address is considered as  
3 adequate proof of residence, since passports are only issued  
4 upon physical verification of residence."

5 Joe, pull up Defense Exhibit 2222. Shareen forwarded  
6 Kumar's e-mail to Morgan Stanley, that's in this document. It  
7 didn't work. Morgan Stanley still demanded the proof. Kumar  
8 wrote back. "I just spoke with Ms. Das. She said she's able  
9 to get a letter from her doctor, a GP who treats her who is  
10 situated close to where she lives to verify her address to say  
11 he is her physician, etc. Please confirm that's okay. I'll  
12 ask her to send ASAP." Kumar came up with a doctor's note. He  
13 came up with other documents Morgan Stanley was demanding, too,  
14 but because Das really lived in California, they were all fake.  
15 He used his cronies in India to get a bunch of fake documents.

16 He started with a fake affidavit. Defense Exhibit  
17 2441R, page 5. It's got a seal and everything. The affidavit,  
18 "I, Manju Das, acknowledge Shikar Das, resident New Delhi, do  
19 solemnly affirm and declare that I reside at the above address.  
20 I've been living here ten years. That's my true and correct  
21 address." This is a false document Kumar created and created to  
22 deceive Galleon and Morgan Stanley. Mr. Rajaratnam knew  
23 nothing about it. Kumar admitted that. He got a fake doctor's  
24 note. Here it is, Exhibit 2441R. Dr. Alok Mathur. His  
25 letterhead shows he's consultant to none other than McKinsey &

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1 Company. It says, "Certified, Ms. Manju Das has been under my  
2 care since the last ten years and resides at a certain address  
3 in New Delhi." This was a false document. Kumar created it.  
4 He created it to deceive Galleon and Morgan Stanley.  
5 Mr. Rajaratnam knew nothing about it. Kumar admitted that.

6 Kumar also filled out a fake tax form. Defense  
7 Exhibit 2441R. This is an IRS form W8 signed with Manju Das,  
8 but filled out by Kumar. He admitted that, and he had Das sign  
9 it under the penalty of perjury and that's what it says right  
10 above her signature. Once again he's given his in-law's  
11 address as Das' address and he checked the box stating that Das  
12 was a resident of India. This was a false document. Kumar  
13 created it. He created it to deceive Galleon and Morgan  
14 Stanley. Mr. Rajaratnam had nothing to do with it. Kumar  
15 admitted that.

16 Fake affidavits, fake doctors' notes, fake tax forms,  
17 it still wasn't enough. Galleon Morgan Stanley still demanded  
18 more proof. This one from Shineed Hayes September 8. Just  
19 imagine how Kumar must have felt when he received this e-mail.  
20 Imagine his frustration after all the efforts he put into the  
21 phony affidavit and phony doctor's note and phony tax return.  
22 He wasn't very good at hiding his frustration. Defense Exhibit  
23 2499. The lies just kept coming.

24 "Dear Shineed, as we discussed, in India there are not  
25 utility and fuel bills in all individuals' names, since the

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Summation - Mr. Dowd

1 infrastructure is so weak. The same holds true for the  
2 financial banking infrastructure. Many people have  
3 historically held money in other forms or in joint accounts  
4 with other people in other cities. It's been a country where  
5 money matters are dealt with on faith. For example, you can  
6 buy jewelry in one city and pay in another months later based  
7 on good faith. Each country has its own custom. You can do  
8 the same in Japan, for example. This is why she got the letter  
9 from her long-time doctor and the notarized passport with  
10 address. Regards."

11 Kumar gave it one more shot. This time he opened a  
12 bank account in Das' name in Bangalore. He asked the bank for  
13 a letter providing Das's supposed address in India. Defense  
14 Exhibit 4365R, but HSBC included more information than Kumar  
15 had asked. HSBC noted the account had only been opened since  
16 October 20, 2008, just a few days earlier. Joe pull up Defense  
17 Exhibit 4366R. This is the first draft of the letter and notes  
18 the account's only been open since October 20. It's this what  
19 tipped Galleon and Morgan Stanley to the fact the account was  
20 only opened for a few days. The whole point was to make it  
21 appear Das lived at this address for ten years, so Kumar told  
22 them to change the letter. That's in defense Exhibit 2838R.  
23 He asked them to delete the words because they would have  
24 revealed his fraud. What HSBC did as instructed, removed the  
25 language indicating the account had only been open for a few

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1 day.

2 Final letter is defense Exhibit 2823. This is another  
3 phony document created by Kumar to deceive Galleon. Kumar  
4 admitted that. Kumar eventually admitted that all these  
5 documents were fake. He eventually admitted that the point of  
6 all this effort was to fool Galleon and to fool Morgan Stanley  
7 about who Manju Das really was and where Manju Das really  
8 lived. This is what he said eventually. Pull up day 6, pages  
9 730 line 19 through 731 at line 5. This is sworn testimony  
10 before you, ladies and gentlemen.

11 "Q. Mr. Kumar, you recall when we broke yesterday we were  
12 talking about your various false communications to Galleon and  
13 Morgan Stanley about Manju Das?

14 "A. Yes.

15 "Q. Look at the number of false documents you created, the  
16 affidavit, the doctor's note and the tax form. Do you remember  
17 that?

18 "A. Yes, sir.

19 "Q. And you obtained all these documents because Galleon and  
20 Morgan Stanley were demanding proof of Manju Das, whether she  
21 lived outside the United States, correct?

22 "A. Yes, sir."

23 That's what Kumar finally admitted after I showed him  
24 all those fake document he created, but he didn't admit it when  
25 I first asked him about it. When I first asked about it he

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1 lied on this witness stand. Don't forget that, please. That  
2 is what he said when I first asked about these documents. Pull  
3 up day five at 693, line 8, Joe.

4 "Q. Finally, with no alternative, you faked the documents  
5 necessary to satisfy Galleon and Morgan Stanley, correct?

6 "A. I got them, they needed a bank account statement, which I  
7 got for them.

8 "Q. You fabricated affidavits and doctor's notes and bank  
9 statements, didn't you?

10 "A. No, sir. I got a note from her doctor who has been her  
11 doctor for fifteen years. That continues to be her doctor and  
12 I got a bank statement from a bank account that she has, sir."

13 That was all false. That's what Kumar said when he  
14 thought he could get away with it. After he couldn't get away  
15 with it any longer he gave up and admitted the truth. Do you  
16 know what that exposed? It exposed Kumar's biggest lie of all  
17 and that's the lie he told about why he testified in the first  
18 place. Kumar testified in this trial because he wants to make  
19 the government happy, because he wants the government's help at  
20 sentencing. But that's not what he told you. He told you he's  
21 here because he's a boy scout and all he wants to do is tell  
22 the truth. Ladies and gentlemen, the last thing Anil Kumar  
23 cares about is the truth and he proved that he'll do anything  
24 and say anything to make the government happy, so he can get a  
25 sweetheart deal at sentencing. We showed you that. He showed

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1 you that. With all the lies he told from the witness stand,  
2 you cannot believe Anil Kumar and because you cannot believe  
3 Anil Kumar you must vote to acquit.

4 Your Honor, this is a good place to break, if it's  
5 convenient with the Court and the jury.

6 THE COURT: That's fine, Mr. Dowd. We'll break until  
7 tomorrow morning at 9:30 as usual and continue with closing  
8 argument.

9 (Jury excused)

10 (Continued on next page)

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14KFRAJ6 Summation - Mr. Dowd

1 (In open court; jury not present)

2 MR. STREETER: Your Honor, one issue I'd like to  
3 raise, please?

4 THE COURT: Yes. Take your seats.

5 MR. STREETER: Mr. Dowd mentioned to the jury that all  
6 these documents would be in their Kumar binder, and I'm  
7 concerned that means they intend to create binders of separate  
8 documents in different subject matters to send back to the jury  
9 and I've never seen such a thing in terms of documents going  
10 back to the jury, that a party gets to organize the documents  
11 in a way that continues to advocate from them in a binder that  
12 goes back to the jury. The way that I've seen it in every  
13 single trial I've ever done is that the documents go back  
14 either if the jury requests a specific document or all the  
15 documents go back in folders in their exhibit number order and  
16 the jury can pick through them and figure out which ones they  
17 want to look at.

18 THE COURT: Let's ask Mr. Dowd what his intention is.

19 MR. DOWD: Your Honor, we understood that, and we told  
20 the government that we were organizing our documents this way  
21 by witness. I know we've supplied the Court with the same kind  
22 of binder, so that's all I was referring to. I didn't mean to  
23 do something improper here, but it was -- we told, we talked to  
24 Mr. Streeter about it yesterday. So I don't know why -- we  
25 just --

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Summation - Mr. Dowd

1 THE COURT: My normal practice is simply to provide  
2 all the exhibits either numerically, generally numerically to  
3 the jury.

4 MR. DOWD: Your Honor, I apologize, then. I  
5 misunderstood.

6 THE COURT: Not a major issue. If you want to suggest  
7 an index of some sort by witness, you can submit it to the  
8 prosecutor and to the Court and I'll take a look at it.

9 MR. STREETER: Your Honor, what I think makes sense  
10 is, and what I had talked to Mr. Lynam about is each of us  
11 would put together an index and there would be a column in the  
12 index which indicated which witness the document came in  
13 through. Ordinarily the index provides the exhibit number and  
14 a description of the document and Mr. Lynam proposed that there  
15 also be a column saying which witness it came in through.  
16 That's all we discussed. The notion of putting together  
17 binders that organize documents so they could continue to  
18 advocate inside the jury room is in my view totally  
19 unacceptable and far beyond the practice I've ever seen in this  
20 courthouse.

21 MR. LYNAM: Your Honor, as Mr. Streeter indicates, we  
22 talked about having an exhibit list organized by witness and  
23 that's what I thought he said he was doing, too, and that's  
24 what we're doing. So to organize it by witness we thought it  
25 made sense to have them organized in binders by witness as

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Summation - Mr. Dowd

1 THE COURT: Yes. We've made that change.

2 MR. STREETER: My concern is that in conjunction with  
3 that, the charge that was brought out this morning after the  
4 charge conference also made other changes that we had, I had  
5 thought we'd understood would not be made, namely --

6 THE COURT: Tell me which charge you're referring to.

7 MR. STREETER: The one that I'm concerned about, your  
8 Honor is on page 47, 31C.

9 THE COURT: Yes, I have it.

10 MR. STREETER: What I understood was that your Honor  
11 was putting in the "should have known" language. I did not  
12 understand at the time and I never understood this until I  
13 received this this morning that you were going to have that  
14 last sentence in the charge. The government doesn't think  
15 that's a correct statement of the law. The government thinks  
16 that it should just simply say the government must show that  
17 Mr. Rajaratnam knew that the information was being provided in  
18 breach. It's impossible for an objective standard like  
19 materiality to also be a subjective standard. We know of no  
20 case that's provided that, no instruction that's ever provided  
21 that. Same with whether the information is public or not  
22 public. That's an objective question, it's either public or  
23 it's not public and to gloss on top of that then a subjective  
24 requirement, and then finally, with respect to the personal  
25 benefit, we know of no instruction that's required the

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1 defendant to know of the personal benefit. It's an objective  
2 requirement that the insider have a benefit.

3 THE COURT: So you're requesting the deletion of the  
4 last sentence?

5 MR. STREETER: I'm requesting the sentence be changed  
6 to say the government must show that Mr. Rajaratnam knew that  
7 the information was provided in breach, period, and then just  
8 one sentence saying, "I will instruct you subsequently what I  
9 mean by knowledge," because there's a whole section of your  
10 charge where you describe knowledge and that that includes  
11 drawing inferences from disparate pieces of information because  
12 a defendant rarely announces their intentions openly in a  
13 document or in a statement. So that is what I'm requesting  
14 with respect to this, that it be modified back to the way it  
15 originally was and that that one sentence be added to say I'll  
16 instruct you later about what is meant by knowledge.

17 THE COURT: Mr. Lynam?

18 MR. LYNAM: Your Honor, we believe the way the Court  
19 has it is the right way. The sentence captures the knowledge  
20 of the breach and goes on to explain that the benefit is tied  
21 into the breach, which is what I think the instruction is  
22 trying to do here. So I think the way the Court has captured  
23 it is the right way to do it. So we would object to any  
24 change.

25 THE COURT: I'll review it overnight and advise the

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14KFRAJ6 Summation - Mr. Dowd

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parties tomorrow morning.

MR. STREETER: Thank you, your Honor.

(Adjourned to April 21, 2011 at 9:30 a.m.)

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14LFRAJ1

1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 UNITED STATES OF AMERICA,

4 v.

09 CR 1184 (RJH)

5 RAJ RAJARATNAM,

6 Defendant.

7 -----x

8 New York, N.Y.  
8 April 21, 2011  
9 9:45 a.m.

10 Before:

11 HON. RICHARD J. HOLWELL

12 District Judge

13 APPEARANCES

14 PREET BHARARA  
15 United States Attorney for the  
16 Southern District of New York  
16 JONATHAN R. STREETER  
17 REED M. BRODSKY  
17 ANDREW MICHAELSON  
18 Assistant United States Attorneys

19 AKIN GUMP STRAUSS HAUER & FELD LLP  
19 Attorneys for Defendant  
20 JOHN M. DOWD  
20 TERENCE J. LYNAM  
21 MICHAEL STARR

22 ALSO PRESENT: B.J. KANG, FBI

14LFRAJ1

1 (Trial resumed)

2 (In open court; jury present)

3 THE COURT: Good morning, ladies and gentlemen.

4 JURORS: Good morning.

5 THE COURT: We're going to start this morning with  
6 continuing closing argument by Mr. Dowd.

7 MR. DOWD: Good morning, ladies and gentlemen.

8 JURORS: Good morning.

9 MR. DOWD: Ladies and gentlemen, I'm going to cover  
10 quite a bit of ground with you today. I'd like you to know  
11 I'll try to make it as efficient as I can. We have about 14  
12 stocks to cover and a couple of the cooperators. So I pray  
13 that you'll bear with me and I'll do my best to get through  
14 this so we can move on.

15 You recall yesterday that we finished, we demonstrated  
16 through the evidence that was presented and the testimony of  
17 Mr. Kumar that he had just lied over and over again in this  
18 courtroom when he tried to blame Raj for his Pecos Trading and  
19 Manju Das and other sins. The real reason he lied, the reason  
20 he testified that Pecos was Raj's idea and the Manju Das was  
21 Raj's idea, was to conceal the fact that he was being paid by  
22 Galleon and he was an investor in Galleon -- but that's not  
23 true and you know it's not true -- because the real reason he  
24 set up the Pecos arrangement and the Manju Das arrangement is  
25 very simple. He cheated his own government on taxes. He

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14LFRAJ1

Summation - Mr. Dowd

1 company were keeping detailed records of all those payments?  
2 Does it make more sense that Kumar sent the money offshore in  
3 order to avoid paying taxes? What does your common sense tell  
4 you? What does the evidence support? There's not a shred of  
5 evidence to support Kumar's allegations that Raj came up with  
6 these arrangements, but it's not even in dispute that Kumar hid  
7 this money and didn't pay his taxes on it. He admitted it, and  
8 I know you'll use your common sense.

9 Kumar earned the money that Galleon paid him. Kumar  
10 testified the money he received from Galleon was in exchange  
11 for material non-public information. To believe that, you just  
12 have to take Kumar at his word. Because apart from Kumar's own  
13 testimony, the government hasn't offered any evidence, none at  
14 all to prove that those payments were for inside information.  
15 Kumar's word is all you have to go on, and you know from the  
16 testimony he gave in this courtroom, you can't take Kumar at  
17 his word, not unless you have a mountain of documents to shove  
18 down his throat and get the truth. But you don't have to,  
19 because we proved that Kumar isn't telling you the truth.

20 We showed you the work that Kumar did for the money he  
21 received and it was legitimate work. He provided legitimate  
22 consulting services to Galleon for which he was paid. He  
23 performed legitimate work setting up Taj Capital Fund, part of  
24 which became a Galleon fund, for which he was paid. I didn't  
25 ask you to take me at my word. I showed you the evidence of

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14LFRAJ1 Summation - Mr. Dowd

1 the legitimate work that he did. That's how you know he's  
2 lying again.

3 The other reason you know he's lying is that he never  
4 actually provided Raj with any inside information, and we're  
5 going to get to that. We're going to go through every one of  
6 those stocks and you'll see that Kumar never provided Raj with  
7 inside information. And that's where it stands. The  
8 government wants you to believe that Raj paid Kumar for inside  
9 information, but it hasn't proven that Kumar ever gave Raj  
10 inside information. The government doesn't want you to believe  
11 that Raj paid Kumar for legitimate work, even though we have  
12 proven that Kumar performed legitimate work. That doesn't make  
13 sense. And once again, Kumar cracked on cross-examination.  
14 Thank God for cross-examination. He acknowledged that when Raj  
15 approached him in 2003, Raj made an entirely legitimate  
16 business proposal. This is what he said when I asked him about  
17 that proposal. Joe, if you can kindly call up day 5, page 635,  
18 line 12 through page 636 at line 6.

19 "Q. There was nothing inappropriate or improper about that  
20 proposal he made to you, correct?

21 "A. That is correct, sir.

22 "Q. You testified that before 2004 you only provided  
23 Mr. Rajaratnam with legitimate insights about the industry,  
24 correct?

25 "A. About the technology industry, sir.

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14LFRAJ1 Summation - Mr. Dowd

1 "Q. That's fine. Technology industry. And that's the kind of  
2 information you and Mr. Rajaratnam discussed before 2004,  
3 correct?

4 "A. That is correct.

5 "Q. And that's what you understood you'd be doing when you  
6 agreed to provide consulting services through Pecos Trading,  
7 correct?

8 "A. That is correct, sir.

9 "Q. You didn't propose to pay -- you didn't -- Mr. Rajaratnam  
10 didn't propose to pay you in exchange for inside information on  
11 McKinsey's clients in 2003, did he?

12 "A. He did not ask, say that, otherwise I would have said no."

13 That's what's said on cross, ladies and gentlemen. He  
14 blurted out the truth. He made an admission completely  
15 inconsistent with the government's whole theory of the case.  
16 Raj made a legitimate proposal for Kumar to perform legitimate  
17 work and provide legitimate insights and the documents show  
18 that is exactly what Kumar did and we showed you those  
19 documents.

20 We showed you the e-mails from 2003 to 2005 when Kumar  
21 was consulting through Pecos, reflecting legitimate advice and  
22 services Kumar was performing. Those are Defense Exhibits  
23 2762, 7138 and 39. Kumar testified about all of them. Of  
24 course these documents represent only a fraction of the times  
25 Kumar communicated with Mr. Rajaratnam over this period, but

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1 defense Exhibit 653, which Kumar testified about.

2 And Galleon and Taj both ended up investing tens of  
3 millions of dollars in an Indian telecom towers project,  
4 although not with the company Kumar preferred. He testified to  
5 that, too, and you saw it in Defense Exhibit 4278 which Kumar  
6 testified about. And that deal accrued to the benefit of  
7 Galleon and Taj both. Kumar testified to that.

8 I also showed you how the Taj fund that Kumar worked  
9 in in 2006 split apart, the two halves split apart. The  
10 private equity piece became New Silk Route or NSR and the hedge  
11 fund piece became the Galleon entity. Kumar testified to that  
12 as well. So all this work that Kumar did in 2006 accrued to  
13 Galleon's benefit as well as to NSR's benefit. That's why  
14 Galleon paid him \$1 million and that's why NSR made him a  
15 partner and that's why Kumar lied about both of these facts.  
16 He lied about the reason for the \$1 million from Galleon. He  
17 claimed it was a payment for a supposed tip on the acquisition  
18 of ATI that occurred five months earlier. We'll look at that  
19 transaction. We'll show you why Kumar's allegation doesn't  
20 make sense. Kumar also lied about his partnership in NSR. He  
21 said he never joined NSR.

22 Ladies and gentlemen, we showed you four, four NSR  
23 partnership agreements signed by Anil Kumar. Those are Defense  
24 Exhibits 3979, 3980, 3992 and 4051. What you have here, have  
25 there is the old familiar Kumar pattern, a bald-faced lie

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14LFRAJ1 Summation - Mr. Dowd

1 to him the next day and he again affirmed it. Ladies and  
2 gentlemen, you cannot convict Raj of conspiring to commit  
3 insider trading with Anil Kumar when Anil Kumar denied under  
4 oath twice that he ever agreed to commit insider trading.  
5 There's just no case.

6 Now, let's talk about the stocks that he claimed he  
7 gave tips to Raj. The first was AMD earnings. Kumar testified  
8 that he provided Mr. Rajaratnam with so-called confidential  
9 information about AMD's quarterly earnings. What does that  
10 testimony amount to? It amounts to nothing at all. Kumar  
11 didn't specify a single occasion when he provided  
12 Mr. Rajaratnam with AMD earnings information. Kumar couldn't  
13 tell you what the information was. You cannot convict  
14 Mr. Rajaratnam trading on the basis of material non-public  
15 information or conspiring to do so if the government can't even  
16 tell you what the information was or when it was provided or  
17 whether Mr. Rajaratnam traded on it. And the government hasn't  
18 shown you any of that to support this allegation.

19 But Kumar couldn't even keep his story straight. He  
20 told you he provided Mr. Rajaratnam confidential information  
21 about AMD earnings, but he told the FBI that he was, quote,  
22 "clueless," unquote, about AMD's financial information and he  
23 had to eat those words on cross-examination. You remember  
24 that. Joe, pull up day 6, page 748 at line 11.

25 "Q. Let me read to you a quote from the FBI interview of

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14LFRAJ1 Summation - Mr. Dowd

1 December 17, 2009.

2 "A. Okay.

3 "Q. 'Rajaratnam knew AMD's finance numbers which Kumar was  
4 clueless about.'

5 "A. Yes, sir.

6 "Q. Did you tell the FBI that?

7 "A. If it's in the written narrative that you have, it's got  
8 to be correct, sir.

9 "Q. And that was true, wasn't it?

10 "A. I was clueless about AMD's financial results because when  
11 you talk about financial results it means all the details, sir;  
12 revenues, profits, margins, how each line of business is done.  
13 I was clueless about what the finance officer at AMD would say  
14 as the financial results. I maintain that to this day, sir."

15 There you have it in Kumar's own words. He was  
16 clueless about AMD's earnings information and you cannot  
17 convict Raj of conspiring with Kumar to trade on AMD's  
18 non-public earnings information if Kumar admitted he was  
19 clueless about the financial results. You'll notice, ladies  
20 and gentlemen, that Mr. Brodsky didn't mention these  
21 allegations at all yesterday, and that of course is because  
22 Mr. Kumar's testimony about these allegations shows how he's  
23 just willing to make things up and you need to believe Kumar to  
24 convict Mr. Rajaratnam and that's why Mr. Brodsky didn't  
25 mention Kumar just made it up.

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14LFRAJ1

Summation - Mr. Dowd

1 AMD HP. Kumar also testified he gave Raj confidential  
2 information about valuable contracts that AMD obtained to  
3 supply HP service with chips. These contracts were announced  
4 on February 24, 2004. February 14, 2005. You saw them in  
5 Government Exhibits 0947 and 0949. Kumar testified he thought  
6 these deals were fabulous for AMD, he was very excited. Said  
7 he told Mr. Rajaratnam all about them before they were  
8 announced. The government expects you to take Kumar at his  
9 word on this one and that's all they offer, Kumar's word. They  
10 haven't shown you any other evidence that Kumar actually gave  
11 Raj any information about these deals between AMD and HP.  
12 That's because there is no evidence for that. All the evidence  
13 that does exist show that Kumar's allegation isn't true. And  
14 we proved that, even though we have no burden whatsoever, we  
15 proved that because we showed you the full picture.

16 In this case, the full picture includes Raj's trading  
17 and the records of Raj's trading. What do these records show?  
18 Joe, if we could pull up Defense Exhibit 4671M.

19 Ladies and gentlemen, they show that Raj had no  
20 position in AMD stock before the February 24, 2004  
21 announcement. They show that Raj had a short position in AMD  
22 stock before the February 14, 2005 announcement. Meaning he  
23 was betting the stock would go down. How does that square with  
24 Kumar's claim he told Raj these deals were fabulous for AMD and  
25 that Kumar was excited and Kumar would buy the stock if he

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14LFRAJ1 Summation - Mr. Dowd

1 announcement. It's Defense Exhibit 4484, 4527, 3449, 3450,  
2 which Mr. Schutte testified about. That evidence proves that  
3 this spinoff was public. The government has no answer to all  
4 the public articles we showed you. All it can do is hope that  
5 you follow it down the rabbit hole into the Wonderland where  
6 these articles don't exist. But this is the real world and  
7 they do exist and they show this spinoff was public. It was  
8 public and the government hasn't even tried to prove otherwise  
9 and for that reason you must acquit Raj.

10 ATI. Anil Kumar also testified he told Raj about  
11 AMD's plans to acquire ATI before that deal was officially  
12 announced on July 24, 2006. This is another one where you just  
13 have to take Anil Kumar's word for it. The government hasn't  
14 shown you any evidence other than Kumar's own testimony that  
15 Kumar told Raj anything at all about this deal. They haven't  
16 shown you any e-mails or instant messages between Raj and  
17 Kumar. They haven't shown you any recorded telephone calls.  
18 They haven't even shown you any telephone records. To be clear  
19 the government does have Kumar's telephone records, they're  
20 Government Exhibit 2006. The government just didn't show you  
21 those records because they don't support its case. So let's  
22 look at what the government showed you instead. Joe, let's  
23 call up Government Exhibit 20R.

24 Ladies and gentlemen, this is the government's chart  
25 of Raj's trading in ATI in 2006. Then they superimposed on top

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14LFRAJ1 Summation - Mr. Dowd

1 knew AMD was considering a purchase of ATI. He thought he  
2 ought to say how bad he thought the deal was. He did hate the  
3 deal because word got around the sell side and buy side  
4 analysts this deal was going to happen because Hector was  
5 talking about it, and that's exactly what Hector's colleagues  
6 at AMD said to each other.

7 Pull up Defense Exhibit 4492. Ladies and gentlemen,  
8 Defense Exhibit 4492 is an e-mail dated July 13, 2006 from Mike  
9 Haase to Hector Ruiz. Haase's e-mail is in response to the  
10 e-mail from John Eisenberg at Janus. Haase states, quote,  
11 "Another point for you to be aware of, when you converse with  
12 either sell or buy side the contents of the communications  
13 often float around to other folks within the investment  
14 community." Haase was exactly right. Word does float around  
15 to folks in the investment community. That's how things work  
16 in the real world. And the word had definitely floated around  
17 about this deal because Hector was talking about it. And  
18 that's why analysts were writing to Hector telling him how much  
19 they hated it. The deal was public and everyone was talking  
20 about it. We showed you that in Defense Exhibit 064, 0468,  
21 3484, 3489, 0500, 0545, 0554 and 0569, which came in through  
22 Smith and Mr. Schutte.

23 Raj and Galleon were all aware of this public  
24 information. They just didn't like the deal and didn't think  
25 it would happen. That's reflected in what they wrote at the

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14LFRAJ1 Summation - Mr. Dowd

1 time. For example, Defense Exhibit 466, which Mr. Schutte  
2 testified about. Adam Smith even admitted on the witness stand  
3 that he was surprised, surprised when the acquisition was  
4 eventually announced. Joe, pull up day 15, page 2900, line 10  
5 through page 2901, line 11.

6 "Q. And in fact these rumors that you're describing actually  
7 got so specific and they were so strong that some of the major  
8 holders or investments in AMD, the company that was going to  
9 acquire ATI, they actually got letters from their shareholders  
10 questioning whether or not AMD should make this acquisition  
11 even before the acquisition was announced, isn't that right?

12 Answer by Mr. Smith: "I don't have direct evidence of  
13 that, but I do remember hearing that was the case. And it  
14 wouldn't surprise me because I remember when I first learned of  
15 AMD's acquisition of ATI that it wouldn't make strategic sense.  
16 In fact, if you look specifically at what the reasons for  
17 combining the two companies were, they didn't really hold up to  
18 thoughtful scrutiny in my opinion, which is part of the reason  
19 I was surprised when it eventually did happen."

20 That's an example of what I mentioned a little while  
21 ago about how prepackaged testimony breaks down on  
22 cross-examination. Smith testified that he knew about this  
23 deal ahead of time from an insider. That's the whole point of  
24 his testimony. But on cross he blurts out the truth, I was  
25 surprised when it eventually did happen. He was surprised when

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14LFRAJ1

Summation - Mr. Dowd

1 cheapest stock in EV/sales of my entire universe at 1.2X; two,  
2 is exposed to the graphics space which will have one of the  
3 best secular increases due to Vista. Three, has a 700 million  
4 consumer business, handsets, DTV, etc., that the Street gives  
5 no credit to. I feel strongly about the story and believe we  
6 should be buying at these levels even in front of earnings."

7 Smith admitted that all the reasons he listed in this  
8 e-mail for buying ATI stock were true. That is what he said  
9 when Mr. Lynam asked him if all the reasons he listed in the  
10 e-mail were in fact true.

11 Joe, would you pull up day 14, page 2858, line 24  
12 through line 25?

13 "Q. So those reasons that you gave in there were true, right?

14 "A. They were true, yes."

15 Joe, pull up Government Exhibit 2402. This is an  
16 e-mail Smith sent to Raj on June 29, 2006. This is the e-mail  
17 that he sent right after ATI made a disappointing earnings  
18 announcement. And it says, "Raj - ATYT guidance was worse than  
19 I thought, but I am firmly convinced that this is a  
20 conservative number." He goes on: "At less than 1.0 times  
21 EV/sales, this is now the cheapest stock in the universe. I  
22 look at that, it has a great product cycle, increase in margins  
23 and grew market share. I strongly advice buying the stock in  
24 the next few days. When the near-term disappointment hits the  
25 shares, I'll be buying for my fund in the multi million dollar

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14LFRAJ1 Summation - Mr. Dowd

1 \$5 million on those trades.

2 But notice the pattern of trading. Raj shorted the  
3 stock between September 27 and October 4 and then he started  
4 covering his position on the afternoon of October 5, 2007.  
5 That was a few days before the announcement on October 7 and  
6 that's exactly what Galleon analyst Vik Khullar was  
7 recommending. Galleon's analyst, Vikram Khullar, was shorting  
8 Business Objects in his paper portfolio at the same time  
9 Mr. Rajaratnam was shorting it in his real portfolio. But  
10 Khullar started to cover that position in the morning of  
11 October 5 as chatter about a potential acquisition began to  
12 intensify. That's shown in Khullar's e-mails to his paper  
13 portfolio, Defense Exhibits 1199, 1203, 1224 and 1230 which  
14 Mr. Schutte testified about. That's exactly what  
15 Mr. Rajaratnam did. He shorted it until October 5 and he  
16 started to cover just like his analyst told him to.

17 Ladies and gentlemen, has the government proved beyond  
18 a reasonable doubt that Raj acted on a tip from Kumar? Not  
19 even close. Because Kumar can't even keep his story straight  
20 about whether he has access to Business Objects' financial  
21 information and because Raj followed his analyst's  
22 recommendation to the letter.

23 AMD asset light. Let's talk about the AMD asset light  
24 or fab-lite transaction. You recall this was a deal where AMD  
25 sold its chip-making factories to Mubadala in exchange for an

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14LFRAJ1

Summation - Mr. Dowd

1           Then this was the FDN report from April 18, in which  
2 Hector reiterated AMD's move to the asset strategy.

3           Then the electronic news article from April 21. This  
4 was the one that quoted Hector Ruiz and Bob LaMay, both AMD  
5 executives saying AMD restructuring was underway and it would  
6 bring AMD to profitability within the second half of the year,  
7 and then the JPM Securities report for May 6 reporting that AMD  
8 was making steady progress on the asset light strategy.

9           (Continued next page)

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14L8RAJ2

Summation - Mr. Dowd

1 MR. DOWD: Then there were the Lehman Brothers reports  
2 from May 15 and June 5.

3 Then there was the Goldman Sachs report from June 18.

4 And on July 18, there were reports from the Austin  
5 American-Statesman and by FTN Midwest Securities.

6 Then another report by Lehman Brothers on July 23.

7 Another article in the Inquirer on July 23. This one  
8 saying, "It's a done deal now; there is just paperwork left to  
9 do."

10 Another article in the EE Times of July 28. This is  
11 the one that quoted the AMD spokesman saying, "It's a fair  
12 assumption that we have begun implementing the program."

13 On August 8, 2008, the EE Times even asked, "AMD's  
14 constant leaks about its asset-light plans are getting  
15 tiresome. By the time AMD announces its asset-light strategy,  
16 will anyone care?"

17 Then Business Week on August 11, TG Daily on August  
18 12, PC Magazine on August 12, JP Morgan on August 12, and  
19 Reuters on August 13. And there was even more public  
20 information out there that Professor Jarrell put in his slides,  
21 and even more articles and analyst reports were put in evidence  
22 through Mr. Schutte.

23 There was a July 19 article in the Austin  
24 American-Statesman. That's the one that quoted AMD CEO Dirk  
25 Meyer saying that AMD was just months away from spinning out

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14L8RAJ2

Summation - Mr. Dowd

1 Ladies and gentlemen, what did the information amount  
2 to? Was it important or nonpublic that the parties had shaken  
3 hands given the information was already out there? Of course  
4 not.

5 AMD's spokesman had been quoted in the newspaper  
6 saying the strategy was already being implemented. AMD's  
7 second senior executive promised this thing would get done in  
8 calendar year 2008. Of course they had shaken hands. In fact,  
9 they had gone a lot further than that, and their progress had  
10 been reported in all the public information we showed you.

11 And what significance was it that Mubadala was going  
12 to be investing 6 to 8 billion? None. Of course they were  
13 going to be getting cash from Mubadala. The whole point of the  
14 deal was to improve AMD's cash situation. Everybody knew that  
15 Mubadala was the deep pocket. That had been in the papers and  
16 the analyst reports too, and that's what Raj had discussed in  
17 his PowerPoint presentation to Mubadala back in June.

18 The government wants you to think it's a big deal that  
19 the specific figure of 6 to 8 billion hadn't shown up in the  
20 press yet. But let's get real. This deal was public and  
21 anyone paying attention knew all about it and knew that the  
22 whole point was to clean up AMD's capital situation. The  
23 government wants to split hairs, but you can't convict Raj  
24 based on hairsplitting and make-believe.

25 What significance was it that Kumar told him it would

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14L8RAJ2

Summation - Mr. Dowd

1 be announced the week after Labor Day? None. Company  
2 executives had already quoted in the papers saying this will  
3 happen in the second half of the year. And as to the specific  
4 date, Kumar was wrong. This deal wasn't announced until  
5 October. Labor Day is the first weekend in September.

6 Ladies and gentlemen, the government wants you to view  
7 this telephone call in a vacuum. They want you to look at this  
8 telephone call like it's the only piece of information out  
9 there, but it wasn't. The government can't make all the public  
10 information disappear. It can only hope that you ignore it.  
11 You're not going to do that. This deal was public. It was  
12 known by Raj. It was known in the industry. In fact, it's  
13 exactly what Anil Kumar's McKinsey colleague said in an e-mail  
14 to him on August 15, 2008, the very same day that he called Mr.  
15 Rajaratnam about the handshake.

16 Joe, call up Defense Exhibit 2396.

17 This is an e-mail that Kumar's colleague Dickon Pinner  
18 wrote to Kumar on August 15, 2008, the very same day as the  
19 handshake call that the government got so worked up about. In  
20 fact, Pinner is writing in response to an e-mail which Kumar  
21 sent to him telling him about the handshake. What does Pinner  
22 say? "Given that this is now pretty much known in the industry  
23 (several articles published speculating that discovery and  
24 Pearl are entering a foundry space), we should think through  
25 the competitive response from the other foundry players.

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14L8RAJ2

Summation - Mr. Dowd

1 So Raj told them what he heard. There is nothing surprising,  
2 and certainly nothing illegal about that, because the deal was  
3 public.

4 The government also makes a big deal out of the  
5 conversation where Rengan says he joked with David Palacek  
6 about hiring his wife as a consultant for Galleon. All you  
7 need to remember about this call was that nothing ever came of  
8 it, nothing ever happened. It wasn't a serious conversation.  
9 Rengan said right there on the call it was a joke.

10 Ask yourself, if this whole case is as serious as the  
11 government wants you to believe, if the government's evidence  
12 is really as good as the prosecutor just claimed, why is the  
13 government making such a fuss over a conversation like this  
14 one? The answer is they are trying to distract you and  
15 prejudice you with an unserious conversation that didn't go  
16 anywhere and it didn't result in anything.

17 Now, the public information about the asset-light  
18 restructuring just kept coming in August and September of 2008.  
19 Professor Jarrell testified about that information, and we  
20 showed it to you through Rick Schutte.

21 Let's go to Jarrell 37. There was the August 25  
22 AmTech Research report stating the announcement would be made  
23 before the next earnings call scheduled for October 16. There  
24 was the Jefferies report from September 3 saying the official  
25 announcement might be two weeks away. A September 7 report

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14L8RAJ2

Summation - Mr. Dowd

1 Kumar also claimed he later told Raj the deal would be  
2 announced on October 7. That isn't recorded in any tapes, but  
3 Kumar says he found out the date would be October 7 and told  
4 Raj that fact on September 30. Then the government played some  
5 tapes where Raj told Chiesi the date would be October 7. That  
6 wasn't material nonpublic information either. That wasn't  
7 material nonpublic information the same reason it wasn't  
8 material nonpublic information when Kumar told Raj it was  
9 happening the first week of October. October 7 is the first  
10 week of October. It was already public that this announcement  
11 was imminent and would be coming before AMD's scheduled  
12 earnings announcement on October 16.

13 I already mentioned the August 25 AmTech Research  
14 report stating the announcement would be made before the next  
15 earnings call scheduled for October 16. There was also a  
16 Lehman Brothers report on September 12 stating that the  
17 announcement will happen before October 16. It was already  
18 public that this deal was coming before October 16.

19 So what difference did it make that Raj heard it would  
20 be October 7, what advantage did that give him? None. It made  
21 no difference. It gave him no advantage. How do you know for  
22 sure that Raj had no unfair advantage? Raj lost money on his  
23 AMD trading. He lost a ton of money. He lost over \$67 million  
24 trading in AMD in 2008.

25 Joe, put up Defense Exhibit 4694.

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14L8RAJ2

Summation - Mr. Dowd

1 This is the slide that Professor Jarrell showed you.  
2 It's in evidence. It shows that Raj lost more money trading  
3 AMD than all of the alleged profits the government claims he  
4 made on the other stocks in this case that he bought.

5 Ladies and gentlemen, this is probably the first  
6 insider trading case in history where the government claims the  
7 defendant lost \$67 million trading on inside information. Its  
8 theory just doesn't make sense.

9 Professor Jarrell explained exactly why Raj lost so  
10 much money. Raj lost money because the market did not regard  
11 this deal as material, and Raj lost money because all of the  
12 public information had been impounded into the stock.  
13 Impounding is one of the ways that information can become  
14 public. All of the talk about this deal had become impounded.  
15 The market knew it was coming, and when the companies finally  
16 got around to issuing their press release, everyone knew about  
17 it and no one cared. That's why the stock price continued to  
18 fall.

19 Before I move on from asset-light, I want to mention  
20 Danielle Chiesi. Chiesi is another witness the government  
21 chose not to call in this case, even though it bears the burden  
22 of proof. The government decided it's better off having you  
23 hear Chiesi on the snippets of tape without ever hearing from  
24 her on the witness stand. You can draw your own inferences  
25 from that.

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14L8RAJ2

Summation - Mr. Dowd

1           What do all of those snippets amount to? Not much.  
2 They certainly don't reflect Chiesi communicating any material  
3 nonpublic information about AMD or IBM, where she supposedly  
4 had sources in Hector Ruiz and Robert Moffat. Where's the  
5 beef? What is the information? What does she ever tell Raj  
6 about the asset-light deal? Nothing. They don't even show  
7 that Chiesi had any information about the deal.

8           So why did the government play these calls at all?  
9 The prosecutor told you during his closing argument. They  
10 played these calls because a few of the phrases the government  
11 doesn't understand and doesn't want you to understand.  
12 Remember, they didn't call Ms. Chiesi to explain what these  
13 things meant, even though it's their burden. First they played  
14 these calls because they think there is something suspicious  
15 about Raj telling Chiesi to engage in a buy/sell strategy. You  
16 saw that phrase buy/sell all over the slides the prosecutor  
17 used in its closing. The prosecutor said this is something  
18 that Raj did to disguise his position. I addressed that  
19 already with ATI. Raj wasn't hiding his position. He wasn't  
20 telling Chiesi to hide her position. He was simply talking  
21 about trading around the core position. Mr. Schutte testified  
22 about that. It was perfectly normal.

23           Once again, the government's own slides showed that  
24 Raj wasn't hiding his position in AMD at all. Government  
25 Exhibit 22. This is the government's slide showing Raj's

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14L8RAJ2

Summation - Mr. Dowd

1 Chiesi did. That's just an attempt to put Chiesi's words in  
2 Raj's mouth. What did Raj say when Chiesi said she was afraid  
3 of being investigated? He asked her why she was afraid. He  
4 didn't get it. It's right on the tape the government played.

5 Some cover-up. Don't let the government distract you  
6 with a sideshow. Remember, the only important thing about  
7 these calls is that Chiesi passed no material nonpublic  
8 information on any of them. They all show it was two portfolio  
9 managers talking to one another about a public deal that both  
10 of them have an interest in. That happens every day on Wall  
11 Street and it's nothing wrong with it. Ms. Chiesi is a  
12 character, that's for sure, but those calls do not reflect  
13 insider trading or a conspiracy to commit insider trading  
14 because they don't reflect any material nonpublic material.  
15 It's as simple as that.

16 Spansion/Reliance. Kumar also testified that he  
17 provided Raj with confidential information about a potential  
18 deal between Spansion and Reliance. The government played a  
19 couple of telephone calls for you on May 2, 2008. In the first  
20 of those calls, Kumar told Raj that Spansion was going to  
21 receive a term sheet from Reliance. In the second call, Raj  
22 passed that information along to Galleon portfolio managers  
23 Kris Chellam and Krish Panu.

24 Kumar didn't tell Raj what the actual terms were  
25 because there would be term sheet. In reality, no term sheet

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14L8RAJ2

Summation - Mr. Dowd

1 This is it. It's the target list for the value fund.  
2 It's dated April 28, 2008, four days before the call with Raj.  
3 And there on the page ending 0002 page you see Atmel. On page  
4 0002 you see Spansion. And on the next page 0005 Lattice.  
5 This document shows that Mr. Panu and Mr. Chellam were indeed  
6 looking at a basket of semiconductor companies, including  
7 Lattice, Spansion and Atmel, just like Raj said on this call.  
8 Raj wasn't telling Chellam and Panu to make a fake  
9 record with fake reasons for buying Spansion. He was telling  
10 them to create a real record for real reasons for investing in  
11 Spansion.

12 Notice who the government didn't call. They didn't  
13 call Kris Chellam, they didn't call Krish Panu, even though  
14 they had the burden. They didn't call the people who actually  
15 know what this call means. The government hasn't proven its  
16 case because everything Raj said was true and this deal never  
17 happened, the term sheet never came in, and Raj never traded on  
18 the stock. Ladies and gentlemen, there is no case here and you  
19 must acquit.

20 EBay. Anil Kumar claimed that he gave Raj  
21 confidential information about eBay's plan to lay off part of  
22 its work force in October 2008. You heard a wiretap  
23 conversation where Kumar told Raj about the layoff. This is a  
24 perfect example of why you can't just listen to the wiretaps in  
25 a vacuum. You have to consider them in context. Because when

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14L8RAJ2

Summation - Mr. Dowd

1 you consider this one in context, you see that it doesn't  
2 amount to anything at all. And you see that everything Kumar  
3 said was public.

4 I think I am almost 7 and 0 with Kumar public. We  
5 haven't seen anything that isn't public coming out of Kumar's  
6 mouth. In fact, you see that Kumar didn't even know as much  
7 was already in the newspaper. What did Kumar tell Raj? He  
8 said that eBay was going to do a massive layoff on Monday,  
9 October 6, 2008. He said that he didn't know whether it would  
10 perceived by the market as good news or bad news for eBay. And  
11 he said he tried to find out the size of the layoff and wasn't  
12 able.

13 Ladies and gentlemen, if Kumar couldn't find out the  
14 size of this layoff, it's because he hadn't read the newspaper.  
15 The layoff was public and the public information was even more  
16 specific than Kumar, the supposed insider with the supposed  
17 privileged access, was able to get.

18 The layoff was reported by Barron's on September 15,  
19 2008. Defense Exhibit 2529. I showed it to Kumar. Barron's  
20 said the 10 percent figure that Kumar said he couldn't get when  
21 he talked to Raj two weeks later.

22 The layoff was also reported by Bloomberg on September  
23 27, 2008. That's Defense Exhibit 2673. I showed it to Kumar.  
24 Bloomberg also had the 10 percent figure that Kumar said he was  
25 unable to find out.

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Summation - Mr. Dowd

1 And the precise time of layoff was reported by  
2 Industry Analysts on October 3, 2008, the same day that Kumar  
3 spoke to Raj. That's Defense Exhibit 2677. I showed it to  
4 Kumar.

5 I know you will use your common sense. But to believe  
6 the government's allegations about eBay, you have to ignore  
7 your common sense, because this layoff was public, it was  
8 public as public gets, and the government hasn't even tried to  
9 prove that it wasn't. It just played a snippet of audiotape  
10 with no context at all. EBay shows why you can't simply rely  
11 on those snippets of audiotape and ignore everything else,  
12 because in this case the context disproves the government's  
13 allegation.

14 The government also quoted another piece of context,  
15 and that was Raj's trading. The government showed you that Raj  
16 shorted eBay after the call with Kumar. But they didn't show  
17 you that Raj was short before the call with Kumar.

18 Joe, pull up Defense Exhibit 4677M.

19 This is a chart showing Raj's trading in eBay. The  
20 entries from August 18, September 4, September 29 show that Raj  
21 was short 150,000 shares of eBay before the call from Kumar.  
22 The government didn't show you that because it proves Raj  
23 wasn't trading on the basis of tips from Kumar.

24 Ladies and gentlemen, there is no case on eBay and  
25 that's why you must acquit.

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14L8RAJ2

Summation - Mr. Dowd

1 Starent. Finally, ladies and gentlemen, Kumar's  
2 allegations about Starent. You remember those allegations.  
3 Kumar claimed he was on the beach with Raj in Miami in October  
4 2009. Raj got a phone call from a Cisco executive saying  
5 Starent would be acquired. They embellished the story with the  
6 claim that Raj told him to get a disposable cell phone. You  
7 remember that.

8 Ladies and gentlemen, notice what the government has  
9 not shown you. They have not shown you any telephone records  
10 proving that Raj actually got a call from a Cisco executive.  
11 My lord, they have every telephone record that Raj ever dreamed  
12 of. They have paraded them in this courtroom. You didn't see  
13 one here on this call. They have not shown you any evidence  
14 that Raj ever bought or used a disposable telephone. They have  
15 not shown you any evidence to corroborate Kumar's claim that  
16 Raj told other people to use disposable cell phones. The  
17 government did not show you any of that evidence because none  
18 of it exists. But what does exist the government didn't show  
19 you either, because the evidence that does exist shows how  
20 ridiculous Kumar's allegations are, just like all the other  
21 stocks, they are all made up.

22 The evidence that does exist shows that Galleon's  
23 analysts and sell-side analysts were recommending a long  
24 position in Starent for months before the acquisition was  
25 announced in October 2009. Their analysis was based on public

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14L8RAJ2 Summation - Mr. Dowd

1 just looked at.

2 Joe, can you play Defense Exhibit 3933.

3 (Audiotape played)

4 MR. DOWD: This is what Smith testified when the  
5 government asked him about the call you just heard.

6 Call up day 15, page 3006, lines 2 through 10.

7 "Q. And the purchases that were made in your fund in Starent,  
8 Starent stock before it was acquired, do you know whether those  
9 purchases were based on inside information?

10 "A. No.

11 "Q. Did you know that at the time the purchases were made?

12 "A. I didn't know.

13 "Q. And even after Starent was acquired did you know if they  
14 were based on inside information?

15 "A. No."

16 Ladies and gentlemen, there is no case here. The  
17 government hasn't carried its burden.

18 Your Honor, I am about to move to another chapter.

19 Would this be a good time to take a break?

20 THE COURT: Yes. I think it's a good time for our  
21 morning break.

22 (Jury exits courtroom)

23 THE COURT: How far along do you think you are, Mr.

24 Dowd.

25 MR. DOWD: I am doing pretty well, your Honor. I may

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14L8RAJ2

Summation - Mr. Dowd

1 right under their nose.

2 He admitted that he failed to disclose a number of  
3 foreign accounts under his control, and he failed to report  
4 income on the balances of those accounts. Just like Anil  
5 Kumar, Goel's so-called amended tax returns, which he is  
6 supposed to clean up after he made his deal, still aren't  
7 correct. They are still incomplete and they are fraudulent,  
8 because they still don't disclose the foreign accounts under  
9 his control, which was the problem with the returns in the  
10 first place. And Goel admitted that too. Goel even admitted  
11 that he destroyed documents having to do with these overseas  
12 accounts, and he is getting a free pass for that too.

13 What does that tell you about his credibility? I have  
14 got to tell you, I woke up real early this morning, about 2:15,  
15 and in my head was, cooperator. In this case, they call them  
16 cooperators. Goel was the furthest thing from a cooperator you  
17 can imagine. He didn't cooperate. Does it mean he only  
18 cooperates with the government? Does he cooperate with you?  
19 Does he cooperate with Judge Holwell? Does he cooperate with  
20 us? I don't know the answer to this question. All I know is I  
21 have never seen such belligerence and resistance by a witness  
22 on the stand. I will let you decide what you can conclude  
23 about it.

24 You compare him to Lloyd Blankfein, you compare him to  
25 Rick Schutte, you compare him to Mr. Jarrell or Ms. Holloway,

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Summation - Mr. Dowd

1 who just came in here like good citizens, took the oath, and  
2 delivered the facts to you. This fellow Goel had an agenda,  
3 and he didn't want to tell anybody anything. He was going to  
4 run this courtroom.

5 For some reason he is getting a free pass for all of  
6 that, and that's what I don't understand about these deals. He  
7 isn't tell the truth and he behaved so strangely up on that  
8 stand. I suggest to you his credibility is a serious issue for  
9 you to consider whether you believe him or not. It was like  
10 pulling teeth to get an answer from him.

11 Let's talk about greed. That's the first word the  
12 prosecutor said when he stood before you with his finger  
13 pointed at Raj. That's prosecutor's theory of motive, greed.  
14 Raj isn't greedy at all, and you know that. Geoffrey Canada  
15 came in here and testified about how generous Raj has been with  
16 the Harlem Children's Zone. He testified about Raj's  
17 reputation as one of the most generous people on Wall Street.

18 So long before you heard from Geoff Canada about how  
19 generous Raj is you also heard from Goel about how generous Raj  
20 is. Goel testified about how Raj gave him \$500,000 to help him  
21 hold on to his family apartment in India when Goel's father was  
22 gravely ill. The government wants you to believe that this act  
23 of generosity was something Raj did to corrupt Goel, because  
24 that's the government's other theme, corruption. That's what  
25 the prosecutor told you.

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14L8RAJ2

Summation - Mr. Dowd

1 Goel told you the opposite. Goel admitted that this  
2 gift had nothing to do with greed or corruption, exactly the  
3 opposite. It had to do with generosity and Goel admitted it.

4 Joe, would you call up day 11, page 2069, line 9  
5 through 24.

6 "Q. The money you obtained in 2006 was given out of generosity  
7 for the benefit of your father and the apartment in India,  
8 right?

9 "A. At that point in time, yes, sir.

10 "Q. Mr. Rajaratnam helped you out as a friend, right?

11 "A. At that point, yes, sir."

12 There was some greed and corruption involved, but it  
13 wasn't Raj, it was Goel. Because Goel deceived Raj. He didn't  
14 use the money for its intended purpose. He used his father's  
15 illness to get Raj's sympathy and told Raj the money would be  
16 used to keep the family apartment. Instead, he admitted it  
17 used it to fix up his own house in California and put some of  
18 it in a Swiss account he was hiding from the IRS. He admitted  
19 that too after some hard questioning.

20 So there is some greed and corruption in this case,  
21 but it wasn't Raj, it was Goel's. The only thing Goel's  
22 testimony proved was how generous Raj had been. Goel even  
23 admitted there was no connection between the money Raj gave him  
24 and the information he supposedly passed to Raj. He didn't see  
25 the nexus. Of course he didn't see the nexus. There was no

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14L8RAJ2

Summation - Mr. Dowd

1 If the answer to those questions is no, then you cannot convict  
2 Raj based on Goel's testimony and you must acquit him.

3 Let's talk about Intel. The government alleges that  
4 Goel gave Raj material nonpublic information about Intel's  
5 quarterly earnings before they were officially announced on  
6 April 17, 2007. The government's allegations concerning Intel  
7 are just another example of the prosecutor showing snippets  
8 rather than the full picture. As for the alleged tip about  
9 Intel, the government is asking you to simply assume that it  
10 was material nonpublic information because it hasn't proven  
11 what the information actually was. That is because neither  
12 Mr. Goel nor Mr. Lenke can recall the information they  
13 discussed about Intel. Mr. Goel cannot recall the information  
14 he gave to Raj.

15 Yesterday Mr. Brodsky in his summation said that Lenke  
16 got "some very good news," and that Mr. Goel told Mr.  
17 Rajaratnam "things are looking a little better, things aren't  
18 so bad; I told you it was bad before, but things are getting a  
19 little bit better." In reality, Mr. Brodsky has no idea.  
20 There has been no absolutely no evidence to show what Mr. Goel  
21 said to Mr. Rajaratnam, if anything. The government is just  
22 supplying these facts to fill a hole in its own case, and the  
23 testimony about Goel and Lenke is completely contrary to what  
24 Mr. Brodsky said to you yesterday.

25 Let's look at a few examples. Call up day 10, page

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14L8RAJ2 Summation - Mr. Dowd

1 1679, starting at line 15, Joe.

2 Mr. Brodsky himself asked Mr. Goel during direct  
3 examination about the conversations with Lenke. This is what  
4 he said:

5 "Q. Do you recall exactly what you spoke to Mr. Lenke about on  
6 each of those conversations to the extent you spoke as opposed  
7 to leaving a voice mail?

8 "A. No, sir, I do not."

9 Mr. Goel said the same thing on cross-examination.

10 Joe, please go to day 12, page 2146 to 2147, starting  
11 at line 10.

12 "Q. And your testimony is that this one time, after seven  
13 years, you told him some information that you can't  
14 specifically remember, is that your testimony?

15 "A. Yes, sir. I do not remember the specifics of the numbers  
16 at all.

17 "Q. You don't know whether it was good or bad information,  
18 right?

19 "A. Like I said, I do not remember the specifics of the  
20 numbers; therefore, I do not remember whether it was good or  
21 bad. But I remember talking to him about information I had  
22 received from a person in the investor relations group, and I  
23 passed it on to him, with the proviso that I had gotten it from  
24 the investor relations person.

25 "Q. And because you don't remember what the information is and

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14L8RAJ2

Summation - Mr. Dowd

1 whether it was good or bad, there is no way to verify whether  
2 the information was right or wrong, is there?

3 "A. I don't know what the relevance is between good and bad or  
4 right and wrong. I just passed on the information that I got,  
5 sir.

6 "Q. We can't compare the information that you say you passed  
7 on with what Intel actually reported on April 17th because you  
8 don't remember what the information was, right?

9 "A. That's correct. I do not remember what the information  
10 was.

11 "Q. So we can't compare what the information is that you say  
12 you had with what Intel actually released to see whether the  
13 information you said you had was correct or not?

14 "A. I don't remember what was said to me at that time."

15 Joe, let's go to 2301 on the same day, starting at  
16 line 16.

17 Mr. Lynam again asked Mr. Goel about his previous  
18 testimony that he did not recall the information. This is what  
19 he said:

20 "Q. Then you went on to say, 'All I recall is that I got some  
21 earnings related information from Mr. Lenke which I passed on  
22 to Mr. Rajaratnam,' right?

23 "A. Yes.

24 "Q. Now my question is that you still don't recall what that  
25 earnings information was, right?

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14L8RAJ2

Summation - Mr. Dowd

1

2

MR. DOWD: Mr. Goel did not know how the information led to Raj having impacted Intel's stock price. Mr. Goel admitted that. Ladies and gentlemen, if you can't tell how a piece of information is going to affect the stock price, the information is not material. It's not material because it doesn't help to make a decision in how to trade or whether to trade. The material information, to be material, information has to be the kind you know that's going to affect the stock price positively or negatively. You need to be able to predict the price is going to go up or down, because that's what you need to know in order to trade. The government hasn't proven that here because both of its witnesses admitted it would be impossible to predict how information about this mixed quarter would affect the stock price.

15

16

Mr. Goel also told you that he didn't know how Raj processed whatever information Mr. Goel supposedly gave him and does not know whether Raj bought or sold Intel stock. Pull up day 12, page 2158 at line 16.

19

20

"Q. You don't know how that information was perceived or evaluated or considered by Mr. Rajaratnam, do you?

21

22

"A. At different points in time during my conversation with Mr. Rajaratnam I passed on. It wasn't that I had the press release and I passed the press release on to him. When I got the information from Mr. Lenke I passed it on. And at each

23

24

25

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14LFRAJ3

Summation - Mr. Dowd

1 point in time, how that was processed by Mr. Rajaratnam, I  
2 don't know how that was processed, sir. And even within stock  
3 traders, people process information differently. I don't know  
4 how Mr. Rajaratnam processed it.

5 "Q. You don't know whether it was completely meaningless to  
6 him?

7 "A. I don't know whether he bought or whether he sold."

8 Ladies and gentlemen, that's not an agreement to  
9 commit insider trading. That is not a conspiracy to commit  
10 insider trading. If Goel didn't understand and didn't know  
11 whether Raj was going to use the information to trade, there  
12 was no agreement to commit insider trading. Goel never even  
13 told Raj where the information came from, except to say that it  
14 came from investor relations. That wouldn't alert Raj to the  
15 fact that Goel was getting this information from an improper  
16 source or that Goel was breaching a duty by sharing it, because  
17 investor relations exists in order to give out information.  
18 Mr. Lenke said the whole purpose of investor relations is to  
19 talk to investors and answer the questions, to be the Intel  
20 spokesman for people on Wall Street.

21 Remember also that Intel is a big company. Lots of  
22 sell side analysts cover Intel and follow published reports  
23 about Intel. As a result there was a lot of information in the  
24 market about how Intel was doing prior to quarterly  
25 announcements.

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14LFRAJ3

Summation - Mr. Dowd

1 Joe, pull up day 6, page 952 at line 17. Mr. Lenke  
2 explained there were 40 to 50 sell side analysts who followed  
3 Intel and wrote about Intel.

4 "Q. So as a result there's a lot of information out there in  
5 the public about Intel and how Intel is doing; isn't that  
6 right?

7 "A. Yes."

8 The government does not provide you with any evidence  
9 to allow you to determine what the supposed information from  
10 Mr. Goel was or whether Raj's trading was consistent with it.  
11 That is because they don't know what the information was or to  
12 what extent it was communicated or when, no one knows. We  
13 provided you with documentary evidence that supports Raj's  
14 trading in Intel at that time. It has nothing to do with the  
15 information Mr. Goel allegedly provided. We showed you analyst  
16 reports recommended a short position in Intel in early  
17 April 2007 because Intel was engaged in a price war with its  
18 primary competitor, AMD. Those were Defense Exhibit 0953, 0948  
19 and 0940. We showed you articles in the financial press about  
20 a major upgrade to one of Intel's chips called Centrino, and  
21 the introduction of a new mobile computer product called a  
22 mobile internet device. Those were Government Exhibits 1089,  
23 Defense Exhibit 953 and Defense Exhibit 961. All of those  
24 articles and announcements came out shortly before Intel  
25 reported its quarterly results in April 2007. Both of those

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14LFRAJ3

Summation - Mr. Dowd

1 with any e-mails to show any of the calls on its list were  
2 about. This is because the government doesn't want you to know  
3 what the calls were about. The government just expects you to  
4 assume the calls were about Intel, that the calls were for the  
5 purpose of communicating information no one remembers or knows  
6 the importance of.

7 But the full picture suggests something quite  
8 different. Those communications were between people who  
9 routinely socialized together, between people who vacation  
10 together, between people whose wives and children were friends,  
11 between people who have been friends for over 25 years. Raj  
12 helped Goel when he was in financial trouble. He helped Goel  
13 when Goel was not happy at his job at Intel. He never  
14 pressured Goel to stay at Intel for any reason. In fact, he  
15 set up interviews with Mr. Goel and gave him leads on  
16 opportunities outside Intel. Mr. Goel admitted that. He  
17 admitted that Raj never encouraged him to stay at Intel so he  
18 could keep providing Raj with information. He admitted that  
19 numerous times. Raj never asked Goel to stay at Intel.  
20 Instead, the opposite happened. Raj helped Mr. Goel in his  
21 efforts to find another job. That just doesn't make sense. If  
22 Mr. Goel was providing Raj with inside information about Intel,  
23 why would Raj help him leave Intel? He wouldn't.

24 But Raj did help Mr. Goel in his efforts to leave  
25 Intel. The government just wants you to ignore that. Ladies

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14LFRAJ3

Summation - Mr. Dowd

1 and gentlemen, the assumption the government is asking you to  
2 make is one you cannot make beyond a reasonable doubt when you  
3 look at the full picture. That is why you must acquit.

4 Let's talk about Clearwire. It's hard to imagine how  
5 a deal could get more public than the one between Clearwire and  
6 Sprint. There were dozens and dozens of articles and analyst  
7 reports in the market prior to the announcement of the deal on  
8 May 7, 2008. Let's look at slide 85 from Professor Jarrell's  
9 presentation. Professor Jarrell -- excuse me, my throat's  
10 getting dry -- Professor Jarrell explained there were over 5  
11 dozen news stories and analyst reports about the Clearwire  
12 Sprint joint venture prior to the announcement. Many of the  
13 reports Professor Jarrell summarized contained information  
14 about Intel's investment in the deal. This deal was no  
15 surprise. Professor Jarrell's analysis showed that the stock  
16 price movement on the announcement was not statistically  
17 significant and that means it wasn't material. The whole  
18 market knew the deal was coming. Even the government's own  
19 Intel witness, Sriram Viswanathan, acknowledged that Intel's  
20 investment in Clearwire was public. He said there were reports  
21 in the media not only about the joint venture between Clearwire  
22 and Sprint, but also about Intel's investment in the joint  
23 venture.

24 You also heard Mr. Goel try to minimize speculation in  
25 the media. So-called speculation can have a major impact on

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14LFRAJ3 Summation - Mr. Dowd

1 stock prices as it did with Clearwire. When the Wall Street  
2 Journal reported on the deal in January, Clearwire's stock  
3 soared 25 percent in one day. Joe, would you pull up Defense  
4 Exhibit 1368? Ladies and gentlemen, this is a January 9, 2008  
5 article commenting on the 25 percent increase in Clearwire  
6 stock after a Wall Street Journal article reported that  
7 Clearwire was in talks with Sprint about possible investments  
8 from Intel and others. This is not a trivial price movement.  
9 Intel itself signaled the market about its interest in  
10 investing in the Sprint Clearwire joint venture.

11 Let's look at what Intel said as an example. Go to  
12 Defense Exhibit 1300. This is a January 7, 2008 article  
13 reporting on Intel Capital's president resigning from  
14 Clearwire's board, raising speculation among analysts that a  
15 transaction is in the works. One potential scenario involves  
16 Intel boosting its funding to Clearwire.

17 Now, let's look at Defense Exhibit 4091. This is a  
18 recap of Intel's analyst day event on March 6, 5th and 6th,  
19 2008. Look at page 14. There's a recap of questions that were  
20 asked in a Wimax breakout session.

21 "Q. Are you looking at an opportunity for a capital infusion  
22 for a Clearwire Sprint venture? Is it affordable?"

23 The lead negotiator for Intel on the deal answered,  
24 "You've seen our balance sheet."

25 Scroll back to page 14. The fifth bullet. Intel

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Summation - Mr. Dowd

1 discussed with Raj on recordings you heard were wrong. On the  
2 March 19 '08 call what Goel said about Intel's board approving  
3 the deal was wrong. The collar price Mr. Goel discussed with  
4 Raj on March 20 was wrong, did not have anything to do with the  
5 trading price of the stock. The equity splits the government  
6 keeps referring to were also wrong. Mr. Goel admitted this  
7 information was wrong. Pull up day 12, page 2209, at line 19.  
8 "Q. Now, the collar number that you mentioned, the 17 to 20,  
9 was actually incorrect, right, it was wrong?  
10 "A. As it was proven later on, yes.  
11 "Q. The collar was actually 17 to 23, right?  
12 "A. Yes. Yes, sir.  
13 "Q. So the numbers that you were discussing here were  
14 preliminary numbers, right? They got revised later on or you  
15 were just incorrect later on, is that right?  
16 "A. Sir, whatever I had passed on. I don't know whether it  
17 was right or not."  
18 So now let's look at day 12, page 2200, starting at  
19 line 19. Mr. Lynam asked Mr. Goel about Intel's equity share  
20 in the new entity and Mr. Goel's statement about it to  
21 Mr. Rajaratnam.  
22 "Q. And the 10 percent turned out to be wrong, right?  
23 "A. The 10 percent turned out to be 12 percent."  
24 Mr. Goel even acknowledged that he and Raj were not  
25 discussing the market price of the stock of the new entity.

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Summation - Mr. Dowd

1 Mr. Goel also told you he did not know whether Raj even  
2 considered any of this information important. You heard Raj  
3 tell Mr. Goel it wasn't important. Mr. Goel said he did not  
4 know whether Raj purchased any Clearwire stock in response to  
5 any information Mr. Goel said. To be clear, Mr. Goel did not  
6 know how the information he discussed with Raj would impact the  
7 stock price of the new entity, if at all, whether Raj thought  
8 it was important information or whether Raj traded on it.

9 Ladies and gentlemen, that is not an agreement to  
10 engage in insider trading. Again, the government doesn't want  
11 you to see the full picture. It doesn't want you to think  
12 about the extensive research Galleon was doing into this deal  
13 and this technology. It does not want you to attach any  
14 importance to a trip that Rengan Rajaratnam and Naphtali  
15 Joseph, another analyst at Galleon, took to Washington to  
16 discuss this technology with industry experts. The government  
17 wants you to adopt its obviously incorrect interpretation of  
18 the March 25th call between Raj's brother that came immediately  
19 after Raj Rajaratnam's brother came back from Washington, does  
20 not want you to consider the real meaning of that call.

21 Galleon had expended a lot of effort trying to  
22 determine whether Wimax technology worked. Galleon had done a  
23 lot of research to find out from experts how much Wimax  
24 Spectrum was worth. Galleon did that so that its investors  
25 could get the benefit of Galleon's superior research before the

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Summation - Mr. Dowd

1 rest of the market caught up. But the Wall Street Journal,  
2 quote, "scooped," unquote, Galleon that day. That's what  
3 Galleon analyst Naphtali Joseph said in an e-mail we showed  
4 you. Joe, please pull up Defense Exhibit 1607.

5 This begins with an e-mail from Naph Joseph to the  
6 tech and trading group dated March 25, 2008, summarizing their  
7 meetings with regulatory and valuation experts in DC. Then at  
8 the top, Mr. Joseph says, "Too little too late. Literally was  
9 about to send it out before Wall Street Journal scooped me."  
10 Naphtali and Rengan made a special trip to Washington to  
11 research Wimax technology, to talk about the value of the Wimax  
12 Spectrum with experts. That's a lot of work that Galleon did  
13 not get to fully take advantage of because of the Wall Street  
14 Journal article. That was public information they didn't get a  
15 chance to take advantage of, and that's what Rengan was upset  
16 about, that's what the evidence shows. The evidence shows that  
17 Galleon was following the relevance of the deal, was conducting  
18 its own in-depth research into technology and its value.

19 Galleon did its research so it could benefit its  
20 investors by taking a position in Clearwire stock. The  
21 evidence does not show any sort of agreement between Mr. Goel  
22 and Raj trading on material non-public information about  
23 Intel's investment in the Sprint Clearwire deal. The evidence  
24 does not show that whatever Mr. Goel told Raj mattered to Raj  
25 at all. That is why you must acquit on Clearwire.

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Summation - Mr. Dowd

1 Ladies and gentlemen, let's talk about People Support.  
2 Take that down, Joe. The government alleges that Raj traded  
3 People Support shares in Goel's account on two occasions on the  
4 basis of material non-public information. The government  
5 alleges that Raj obtained this information from Krish Panu, who  
6 was Galleon's representative on People Support's board of  
7 directors. Remember, now, Galleon owned a big piece of People  
8 Support, about 25 percent of the company. And Galleon acquired  
9 that position openly and properly. We showed you the forms  
10 filed with the SEC disclosing Galleon's ownership in the  
11 company. Well, because Galleon owned so much of the company,  
12 the company puts a so-called poison pill in place to prevent  
13 Galleon from buying more. A poison pill is basically a way a  
14 company prevents itself from being taken over by a buyer like  
15 Galleon. It's entirely a normal, commonplace thing. Because  
16 of the poison pill, Galleon itself was unable to buy more  
17 People Support stock without diluting its ownership interest.  
18 But that doesn't mean that Raj or Galleon were forbidden from  
19 buying People Support stock. They weren't. It wasn't illegal.  
20 It was simply a trigger of multiplication of People Support  
21 shares which would have resulted in the dilution of Galleon's  
22 ownership position. That's the poison pill. And the poison  
23 pill applied only to Galleon. It didn't prevent Raj from  
24 recommending People Support shares to other people. Raj was  
25 free to tell other people they should invest in People Support.

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Summation - Mr. Dowd

1 And Raj was free to make trades with People Support's shares in  
2 a friend's personal account and that's what he did for Rajiv  
3 Goel. There was nothing wrong with him doing that.

4 The prosecutor suggested yesterday that Galleon had  
5 some kind of agreement with People Support not to buy any more  
6 shares. That's not the case. There is no evidence to support  
7 that. The poison pill was not an agreement and it didn't  
8 forbid Galleon from buying additional shares or encouraging  
9 others to buy shares. Remember that Galleon owned such a big  
10 chunk of People Support they were given a place on People  
11 Support's board of directors. That's Krish Panu. Nothing  
12 wrong with that either. There's nothing wrong with Mr. Panu  
13 reporting back to Raj at Galleon about what was happening in  
14 People Support or what the board was talking about. Mr. Panu  
15 was allowed to talk to Raj at Galleon about what was going on  
16 at People Support. He was allowed to tell Raj about board  
17 meetings. That's the whole reason Mr. Panu was there, to  
18 represent Galleon on People Support's board.

19 The government, again, has tried to mislead you about  
20 that, asking a bunch of questions about the non-disclosure  
21 agreement that Mr. Panu signed. But People Support's general  
22 counsel, Peter Phan, cleared it up. Mr. Phan testified that it  
23 was perfectly okay for Mr. Panu to tell Raj and Galleon about  
24 what was going on inside the company. Joe, if you'd kindly  
25 pull up day 7 page 1185 at line 6.

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Summation - Mr. Dowd

1 "Q. Am I correct that it is your understanding with regard to  
2 the non-disclosure agreement that Mr. Panu signed that he was  
3 permitted to speak to Galleon about People Support?

4 "A. Correct."

5 People Support is also another stock where the  
6 government's trying to blur the line between confidential  
7 information and material non-public information. That's why it  
8 spent so much time questioning its witnesses about People  
9 Support's confidentiality policies. But remember, confidential  
10 information is not the same thing as material non-public  
11 information. And please remember that there's nothing illegal  
12 about trading on confidential information unless the  
13 information is also material and non-public. The only crime is  
14 trading on material non-public information. In fact, Mr. Phan  
15 testified about the difference between the two. Joe, if you  
16 kindly pull up day 7, page 1182, line 3.

17 "Q. And isn't it correct that information can be confidential  
18 under the company's definition of confidential, but that  
19 doesn't mean it is necessarily material non-public information,  
20 isn't that right?

21 "A. That's correct.

22 "Q. In fact, your policies have different definitions, one  
23 definition for confidential information and another definition  
24 for material non-public information. Isn't that right?

25 "A. That's correct. Confidential information in this case

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Summation - Mr. Dowd

1 would be a broader net than material non-public information of  
2 the type that would be considered insider information.

3 "Q. In other words, the company might want to keep something  
4 confidential, but that doesn't mean that the stock market or  
5 insider trading laws would consider that material non-public  
6 information, right?

7 "A. Correct."

8 The government hasn't proved that Raj traded on the  
9 basis of material non-public information about People Support.  
10 It hasn't proven that because it can't prove that. The time  
11 lines just don't work, as you're about to see. So it has tried  
12 to make the case about something else. It's trying to make it  
13 confidential information. They haven't even tried to prove  
14 that Raj traded on the basis of material non-public  
15 information. That's why you must acquit.

16 Let's look at the two trades at issue. July 28.  
17 First trade the government claims was improper was a trade that  
18 Raj made in Goel's Charles Schwab account on July 28, 2008 at  
19 12:42 in the afternoon New York time. They claim Raj made this  
20 trade on the basis of material non-public information about  
21 Essar's acquisition of People Support, which wasn't officially  
22 announced until August 4. But as usual, they want you to focus  
23 on one piece of evidence to the exclusion of everything else in  
24 the world. And that one piece of evidence is an intercepted  
25 call between Raj and Goel that occurred two days after this

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14LFRAJ3 Summation - Mr. Dowd

1 trade on July 30, 2008.

2 During that call, Raj told Goel that Essar had made a  
3 firm bid to acquire People Support at 12.25 a share. The  
4 government tries to make a big deal out of this call because  
5 the deal wasn't announced until a few days later on August 4,  
6 2008. But that's why it's so important to remember the  
7 elements of the offense when you deliberate. That's why it's  
8 so important to make sure that you consider the evidence in  
9 light of the elements the government needs to prove. Because  
10 it's never a crime merely to discuss material non-public  
11 information. It is only a crime to trade on that information.  
12 And guess what? There were no People Support trades in Goel's  
13 account between the time of this conversation on July 30 and  
14 the public announcement of the deal on August 4. Not one.  
15 There were no trades. There was no crime. It just didn't  
16 happen. The only trade occurred two days before on July 28 at  
17 12:42 p.m. New York time, when Raj bought some People Support  
18 shares for Goel in his Schwab account.

19 So the government's burden is to prove that the  
20 earlier trade, the one that Raj made on July 28, was based on  
21 material non-public information. But it hasn't proven that.  
22 It can't prove that, because Raj placed the trade before,  
23 before the board of directors meeting with Krish Panu, found  
24 out about the Essar's firm bid to acquire the company at \$12.25  
25 a share. Raj placed this trade hours before the People

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Summation - Mr. Dowd

1 acquisition had been discussed. There were no firm offers at  
2 that point, there were no trades in Goel's account following  
3 those meetings. The first and only trade in Goel's account in  
4 People Support before the deal was announced on August 4 was  
5 the trading on July 28. And that one trade occurred before  
6 Mr. Panu and the other board members were briefed on Essar's  
7 firm bid, 12.25 per share and that's why you must acquit.

8 Go to October 7, which is the second leg of this stock  
9 issue. The second trade the government claims is improper was  
10 a trade that Raj made in Goel's Charles Schwab account on  
11 October 7, 2008. Remember at this time Essar's bid to acquire  
12 People Support had been publicly announced. It was announced  
13 on August 4, 2008. Joe, can we have Government Exhibit 1117?

14 This is the press release from August 4, 2008  
15 announcing the deal. It says that Aegis BPO, which is a unit  
16 of Essar, is going to acquire People Support. It says the deal  
17 will be for approximately \$250 million, 12.25 a share. It says  
18 it's an all-cash transaction, meaning Essar is simply going to  
19 pay cash to acquire People Support shares. It says the deal  
20 has been approved by the boards of both companies and on the  
21 second page it says the deal is expected to close in the third  
22 or fourth quarter of the year. It also states that the  
23 acquisition is not subject to any financing conditions, which  
24 means that Essar already has on hand all cash it needs to buy  
25 the company. The deal was public as of August 4, 2008. There

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14LFRAJ3 Summation - Mr. Dowd

1 is no dispute about that, and the government doesn't contend  
2 otherwise.

3 Following this announcement, there was a further  
4 public discussion of the deal, including by Essar's executives.  
5 Remember, Essar is a huge company worth tens of billions of  
6 dollars and the Essar executives made it clear in their  
7 comments to the press that cash was not a problem for them and  
8 this deal was certain. In quotes, that's what they said. In  
9 the newspapers it's reflected, Defense Exhibit 2545, admitted  
10 through Mr. Rosenzweig. Mr. Rosenzweig confirmed that's what  
11 it was telling investors and analysts publicly, but that People  
12 Support was already down the road past the People Support deal,  
13 and it's considering even bigger deals. All of that  
14 information was public by the time Raj traded in Goel's  
15 account, October 7, 2008, and on the basis of that public  
16 information, Galleon's own analyst put the probability of the  
17 deal closing at 95 percent. That's reflected in Defense  
18 Exhibit 2693 which Mr. Schutte testified about.

19 Something happened on the morning of October 7 which  
20 made the stock an attractive buy by Raj. At 8:30 a.m. New York  
21 time on October 7, People Support issued a press release  
22 stating that Essar had asked to schedule a closing for the end  
23 of October. That was still within the time frame the companies  
24 had announced closing back on August 4. Remember, on August 4  
25 the companies had said the deal would close in the third and

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Summation - Mr. Dowd

1 fourth quarter and October 31 is within the fourth quarter.  
2 It's not like they announced the deal was off or anything like  
3 that, they just announced that Essar had requested to schedule  
4 the closing on October 31. But the market reacted badly to  
5 this news and Professor Jarrell testified the market  
6 overreacted. The stock price fell well below the 12.25 per  
7 share that Essar had already publicly announced as its bid.

8 So at 1:09 p.m. Raj bought some shares in Goel's  
9 Charles Schwab account. At 1:46 Raj called Goel to tell him  
10 about the trade. That's Government Exhibit 654T, the  
11 government showed you yesterday. As usual, this call was the  
12 one piece of evidence the government wants you to consider at  
13 the exclusion of everything else.

14 What did Raj say on this call? He said that the deal  
15 was moved to October 31. That was public. That's what set the  
16 stock price falling. Raj said it was a \$250 million deal.  
17 That was also public. It was part of the August 4 press  
18 release announcing the deal. Raj said the deal was going to  
19 close at 12.25 per share. That was also public. It was part  
20 of the August 4 press release. Finally, Raj said that Essar  
21 was going to put 41 million in escrow and that was just wrong,  
22 it never happened. Mr. Rosenzweig confirmed that.

23 Following this call, Essar and People Support worked  
24 together to hammer out the terms of a second press release  
25 which was finalized around 6:45 p.m. You saw that document.

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Summation - Mr. Dowd

1 I want to talk about Adam Smith. I've already talked  
2 to you about Adam Smith earlier when I talked about ATI. Let's  
3 talk about Adam Smith himself for a minute. Adam Smith's story  
4 has changed so many times it's hard to keep it straight. First  
5 he met with us lawyers and he told us he hadn't done anything  
6 wrong, he didn't know anything about insider trading by anyone  
7 at Galleon, including Raj. And also he told Galleon lawyers  
8 that he lost his laptop. That's when the Galleon lawyers were  
9 pulling everything together to preserve everything inside  
10 Galleon after Raj was arrested.

11 Then he met with the government and they made a threat  
12 to send him to jail for 25 years and said he would never see  
13 his boys again unless he, quote-unquote, "cooperated." So he  
14 told the government the opposite of what he told us. By the  
15 way, yesterday Mr. Brodsky said something that really troubled  
16 me. And that was that when Smith talked to us he wasn't under  
17 oath. Well, we don't put people under oath in our office. We  
18 assume they're coming in to tell us the truth. He was there  
19 voluntarily. It's kind of shocking, something like that. We  
20 had no reason to believe that Smith was not telling us the  
21 truth.

22 He told the government the opposite of what he told  
23 us. Said he committed all kinds of insider trading and Raj had  
24 too and so had a bunch of other people at Galleon. He also  
25 told the government he hadn't lost his laptop, which means he

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Summation - Mr. Dowd

1 lied to the people at Galleon about losing it. He told the  
2 government he destroyed it because it contained evidence of  
3 insider trading. Then the FBI sent him to nail his friend Ian  
4 Horowitz by tricking Horowitz to admit to insider trading, but  
5 that blew up on him. The opposite happened. Smith admitted to  
6 Horowitz he hadn't done anything wrong.

7 Why is Horowitz so important? Horowitz was Raj's  
8 trader. That's why. They sent him in there to try to get  
9 Horowitz. You heard Horowitz about an hour ago loud and clear.  
10 There wasn't anything clearer about what Horowitz said about  
11 how he behaved himself and conducted himself, nothing more  
12 powerful than what Horowitz said to him. And then as Horowitz  
13 went on and on, Smith finally admitted he hadn't done anything  
14 wrong. And this is one of those tapes earlier that I was  
15 talking about. And then he came before a judge in this  
16 courthouse and entered a plea of guilty.

17 When questioned about the plea -- now, you're under  
18 oath when the judge takes a plea. He said he told the judge he  
19 had not been threatened. The judges, Judge Holwell and the  
20 other judges in this courthouse will not take a plea, the whole  
21 idea is voluntariness. Any pressure, they question you a long  
22 time about it, they won't accept it unless they're satisfied  
23 it's voluntary and free. He told the judge he had not been  
24 threatened.

25 Then he had breakfast with his good friend and boss

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Summation - Mr. Dowd

1 John Pernell. Pernell was there because he was the owner of  
2 the Polaris fund that Smith was running. He told Pernell he  
3 wasn't actually guilty of the crimes he pled guilty to. Then  
4 he came into this courtroom and told you he was guilty of those  
5 crimes. He told you he had not done all the things he told Ian  
6 Horowitz he had not done. He also told you he'd been truthful  
7 with lawyers from the interview. He said he was honest with  
8 us. He told you we hadn't even asked him any questions about  
9 insider trading when we interviewed him. He told you he never  
10 claimed to Mr. Pernell that he wasn't actually guilty of the  
11 crimes he pled guilty to. Ladies and gentlemen, Adam Smith has  
12 told so many stories to so many people it makes your head spin.

13 You know he wasn't truthful all those times, he  
14 couldn't have been. He contradicted himself over and over.  
15 The government asks you to believe him now. They've got him  
16 under their thumb. And he's thinking about those boys, aged 3  
17 and 5. The government wants you to believe the true version of  
18 Adam Smith's story is the version he told you on this witness  
19 stand, even though that's the version he told under duress.  
20 Let's be clear about that. Adam Smith told one story to the  
21 lawyers, said he hadn't done anything wrong. He told the same  
22 story to Ian Horowitz, gave the same story to Mr. Pernell. But  
23 then he told a different story to the government and to you.

24 The lawyers never threatened Adam Smith. He was there  
25 voluntarily. Ian Horowitz never threatened Adam Smith, you

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Summation - Mr. Dowd

1 heard the tape. John Pernell never threatened Adam Smith.  
2 Only the government threatened Adam Smith. They threatened to  
3 break up his family and send him to prison for 25 years unless  
4 he sang the government tune. Was he scared? You saw right  
5 from the witness stand how scared he was.

6 This latest story is a story the government wants you  
7 to believe. You can't believe the story because that's a story  
8 told under duress and the evidence exposes it as a lie. This  
9 isn't rocket science, it's common sense. With all these  
10 versions of Adam Smith's story running around, make sure you  
11 remember the point. The point isn't that Adam Smith lied to us  
12 or Ian Horowitz or to Mr. Pernell or the government. The point  
13 is he lied to you. He lied to you while he was under oath on  
14 that witness stand. Mr. Lynam's last question to him, the  
15 fifth time he was asked, gave it under oath before this jury.  
16 You can't trust someone who would do that. You know that  
17 because we proved it. We proved it by calling Mr. Pernell, who  
18 had no reason to lie to you, calling Mr. Hotz, who had no  
19 reason to lie to you. Two unimpeachably honest men who would  
20 tell you the truth about Adam Smith's prior statements,  
21 statements that Adam Smith falsely testified under oath that he  
22 never made.

23 You remember Smith claiming on the witness stand that  
24 we the lawyers never asked him about insider trading when we  
25 interviewed him? Mr. Lynam repeatedly asked him that question

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Summation - Mr. Dowd

1 and Smith repeatedly testified he never was asked about insider  
2 trading during those interviews, as if it was just a social  
3 meeting. Ladies and gentlemen, that testimony is obviously  
4 false, but just in case you were going to make the mistake of  
5 believing it, we called Mr. Hotz to prove it was false.  
6 Mr. Hotz was there and this is what he said. Joe, pull up day  
7 20, pages 3854 on line 8. "I specifically remember asking him  
8 whether he was aware of any insider trading at Galleon. Those  
9 were the topics we covered."

10 "His response was that he was not aware of any insider  
11 trading at Galleon."

12 Ladies and gentlemen, Adam Smith lied on the witness  
13 stand under oath. You can't trust someone that would do that.  
14 Adam Smith lied about his conversation with Mr. Pernell, too.  
15 Mr. Pernell is still his friend, notwithstanding all the harm  
16 he's brought to lawyers. You heard Mr. Pernell. He's still  
17 his friend. He feels badly for him. He didn't think he had a  
18 good lawyer that was taking care of him. That's what he told  
19 you from the witness stand. He told John Pernell he pled  
20 guilty to crimes he didn't commit. That was false, too, and we  
21 proved it was false by calling up John Pernell. Call up day  
22 20, page 3838 line 1.

23 "Q. Did you talk to Mr. Smith about the charges he pled guilty  
24 to?

25 "A. Yes.

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14LFRAJ3

Summation - Mr. Dowd

1 admitted the fax had no inside information, wasn't even  
2 important. So let's get this straight. Raj bought a fax from  
3 an analyst that regularly reported to Smith, contained no  
4 inside information and told Smith to take care of it. Smith  
5 said that Raj meant to throw it away, as if Smith is the only  
6 one with a garbage can. That testimony is absurd, it's  
7 obviously false and just a story Smith made up to make Raj look  
8 dirty to help himself with the government as to whether he  
9 provided substantial assistance in this case.

10 It doesn't matter if the story makes no sense and is  
11 obviously false. Raj didn't tell him to destroy that fax,  
12 whatever it was. But Smith was no stranger to destroying  
13 documents. He destroyed his laptop computer shortly after  
14 Raj's arrest but he lied to Raj and Galleon and to the lawyers  
15 for them, he admitted that on cross-examination and he proved,  
16 and that proves that he and Raj never conspired to hide any  
17 evidence.

18 He destroyed that computer when Raj and Galleon had  
19 hired lawyers to preserve data. Smith himself was asked to  
20 preserve the computer and bring it in, but he destroyed it  
21 instead and lied to everyone about it. Now the government is  
22 giving him a free pass. He wasn't charged with obstruction of  
23 justice and he won't be. That's his plea agreement. That's  
24 part of his sweetheart deal. The government just gave him a  
25 free pass. He admitted all that. Ladies and gentlemen, Adam

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Summation - Mr. Dowd

1 Smith lied on this witness stand. He lied multiple times. You  
2 can't trust someone who would do that and you need to trust  
3 Adam Smith in order to convict. You can't trust him for that  
4 reason you must acquit.

5 Let's take these stocks that Adam Smith talked about.  
6 IDT and ICST. Smith testified he provided material non-public  
7 information to Raj about IDT's plans to acquire ICST before  
8 that acquisition was officially announced on June 15, 2005 and  
9 on this one you just have to take Smith's word for it. This  
10 one rides on Smith's testimony alone about something he claims  
11 happened almost six years ago. You can't take his word for  
12 anything. You can't trust him.

13 But you don't need to take anyone's word for it. You  
14 know Smith is lying because the evidence shows he's lying.  
15 Smith testified he heard about this deal from Kamal Ahmed on  
16 March 20, 2005. The government showed you some evidence that  
17 Smith and Ahmed were together at a conference in March 2005.  
18 Smith said he heard about it before that conference in March  
19 but you just have to take his word on that.

20 Raj had been trading ICST long before Smith's supposed  
21 meeting with Ahmed and he built a big long position in it  
22 before March 2005. Joe, let's look at Defense Exhibit 4680M.  
23 This is the chart showing Mr. Rajaratnam's trading in ICST  
24 beginning in 2005. Shows that he was buying ICST throughout  
25 February 2005 before Smith's supposed meeting with Ahmed. If

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Summation - Mr. Dowd

1 you add these numbers up it showed that Mr. Rajaratnam owned  
2 over 600,000 shares of ICST before this supposed conversation  
3 with Ahmed in March. So you know that Raj had reasons for  
4 buying ICST other than this deal, because he bought hundreds of  
5 thousands of shares long before Smith told him about the deal.  
6 You know what those reasons were. He showed you. ICST was the  
7 top long pick of Galleon analyst Derek Brockovich throughout  
8 2005. Smith admitted that and he showed you Rob Deutsche's  
9 research. We took Smith through all Rob Deutsche's reports.

10 Smith also testified about those two eyes e-mails, he  
11 said those were some kind of code for this deal. But you have  
12 to take his word for that, too. There's nothing to support his  
13 claim and you know you can't trust him. There's nothing about  
14 IDT or ICST on those e-mails. Again, you don't need to take  
15 his word for anything because the evidence shows it's not true.

16 Let's look at Government Exhibit 2454. That's one of  
17 those two eyes e-mails from Smith to Raj dated March 9, 2005.  
18 This is the earliest of those e-mails. There were no e-mails  
19 like this before March, although Smith says he knew about the  
20 deal before March. And he says, "we are still on track,"  
21 quote-unquote.

22 What did Raj do after getting this e-mail? He sold  
23 shares of ICST. Call up Defense Exhibit 4680M. This chart  
24 shows Raj's ICST trading. You'll see on March 10, 11, 14, the  
25 days after the e-mail from Smith, Raj sold nearly 150,000

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Summation - Mr. Dowd

1 shares of ICST. And this isn't the only time the trades don't  
2 line up. Call on Government Exhibit 2455. Another one of  
3 those two eyes e-mails, dated March 17, and it says "game on."

4 Back to Defense Exhibit 4680M. Here you see Raj  
5 doesn't even trade at all for four days after receiving this  
6 e-mail. He buys 150,000 shares on March 21 and 24. Then he  
7 sells again the whole 150 on March 28th and 30th. In fact, the  
8 trades never really line up. Call up Government Exhibit 2456,  
9 Joe? This is another one of those eyes e-mails, this one from  
10 April 21, 2005. And in it, it says the date is set for May 16.

11 Now, Smith says these e-mails are supposed to be about  
12 the IDT acquisition of ICST. That's not what happened. It  
13 didn't happen until June 15. And once again, Raj didn't trade  
14 as though he thought it was going to happen. In fact, the  
15 defense Exhibit 4680M, Joe, if you would. After that e-mail,  
16 Raj buys 40,000 shares on the 21st and 22nd. Then he sells  
17 almost 100,000 shares on the 28th. Then Raj's last trade  
18 before the supposed acquisition of May 16 is a sale on May 13  
19 of 75,000 shares. So Raj was selling his ICST stock before the  
20 supposed date of the acquisition Smith says he told him.

21 The evidence just doesn't line up. Doesn't make  
22 sense. That's because it's not true. You can't convict Raj  
23 based on his trading in ICST unless you believe Adam Smith.  
24 You have to take his word for it. You can't believe Adam  
25 Smith, not after his performance in this courtroom. The

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14LFRAJ3 Summation - Mr. Dowd

1 evidence isn't consistent with his story and that's why you  
2 have to acquit Raj.

3 Intersil. Adam Smith testified he obtained material  
4 non-public information about a company called Intersil. He  
5 said he got Intersil's quarterly financial information from  
6 someone named Jason Lin in Taiwan and he said he passed that  
7 information to Raj and told him it was coming from a company  
8 employee. Government expects you to take Adam Smith at his  
9 word on this one, because it's offered no evidence to support  
10 his story. None. Ladies and gentlemen, there are zero  
11 exhibits in evidence to support Mr. Smith's story about  
12 Intersil. None. Even though Smith claimed he was giving Raj  
13 inside information about Intersil in 2008, when Raj's phone was  
14 wiretapped.

15 The government didn't play a single recorded  
16 conversation to support Smith's claim. The only documents the  
17 government put into evidence that had anything to do with  
18 Intersil are two public earnings announcements by the company  
19 in September and October 2004. Smith claims he got revenue  
20 numbers from Lin before those two announcements, but there's  
21 nothing to support his story, nothing.

22 Smith's allegations are completely non-specific. He  
23 didn't tell you what the information was he supposedly got from  
24 Lin. He didn't tell you what the numbers were, he didn't tell  
25 you when he got the information, he didn't tell you what

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Summation - Mr. Dowd

1 information he conveyed to Raj or when he conveyed it. He  
2 admitted all that. Joe, if you pull up day 15, page 2936 at  
3 line 16.

4 "Q. Again, you can't tell us any specific revenue numbers that  
5 you got from Intersil because you don't remember them, isn't  
6 that right?

7 "A. Remember which number?

8 "Q. You say you got revenue information from Jason Lin about  
9 Intersil, but you can't tell us what those numbers are, can  
10 you?

11 "A. Which quarter?

12 "Q. Any quarter.

13 "A. I mean, not off the top of my head, no."

14 Ladies and gentlemen you cannot convict Raj for  
15 trading on non-public information or conspiring to do so if the  
16 government hasn't proved what the information is or was. You  
17 can't convict Raj of trading on revenue numbers that Adam Smith  
18 supposedly got from an insider if you don't know what those  
19 numbers were. How are you to assess if the information was  
20 non-public if you don't know what the information was? How are  
21 you to assess the information was material if you don't know  
22 what it was? The government hasn't offered any evidence at all  
23 on what the information is.

24 Smith also admitted he never told Raj who his source  
25 from Intersil was. He testified Lin got these numbers from

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14LFRAJ3

Summation - Mr. Dowd

1 2009, that he shared it with Raj and Raj knew it was coming  
2 from an insider. Smith and Raj didn't trade Intersil stock the  
3 same way. Mr. Lynam walked Smith through four different  
4 quarterly earnings announcements and Raj and Smith weren't  
5 trading the same way. That wouldn't make sense if Smith's  
6 story were true. If Smith's stories were true, he and Raj  
7 would be trading in the same way, but they didn't trade in the  
8 same way because the story isn't true.

9 You can't believe Adam Smith. You know that. He lied  
10 on the witness stand and you can't believe someone who would do  
11 that, and the other evidence shows it just doesn't fit his  
12 claims about Intersil and that's why I ask you to acquit.

13 Vishay --

14 THE COURT: Mr. Dowd, perhaps this is an appropriate  
15 place for us to break for lunch. Counsel approach.

16 (Jury excused)

17 (Continued on next page)

18  
19  
20  
21  
22  
23  
24  
25



14LFRAJ3 Summation - Mr. Dowd

1 (At the side bar)

[REDACTED]

3 (Jury present)

4 THE COURT: Mr. Dowd.

5 MR. DOWD: Thank you, your Honor.

6 Good afternoon, ladies and gentlemen.

7 I want to cover the last stock on Adam Smith and then  
8 we will move on to a couple of other items.

9 Smith also claims that he provided Raj with inside  
10 information about a possible acquisition of Vishay. He said he  
11 got this information from Kamal Ahmed, a Morgan Stanley banker.  
12 Morgan Stanley had made a bid to be the investment banker for a  
13 potential acquisition of Vishay by the private equity firm  
14 Apollo. The bid is what they call a bake-off. The government  
15 played a recorded call from May 1, 2008, where he mentioned the  
16 potential acquisition to Raj. This one is a lot like Kumar's  
17 allegations about Spansion that we discussed before. There is  
18 no there there. Because Kamal Ahmed didn't even participate in  
19 the bake-off. He begged off. We showed you that e-mail.

20 Joe, if you could pull up Government Exhibit 2442.

21 This is the e-mail from Kamal Ahmed begging off the  
22 bake-off. Morgan Stanley didn't win the bake-off. It wasn't  
23 involved after the bake-off. That's what Owen O'Keefe  
24 testified. And there was never any acquisition of Vishay.  
25 Smith admitted that. And Raj didn't make any money on the

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14L8RAJ4

Summation - Mr. Dowd

1 all kinds of inside information all the time, this one call was  
2 all they can come up with. They want you to think this was  
3 some kind of hot tip, but obviously Raj didn't think so. Smith  
4 told him about the bake-off. Raj asked about fundamentals. Is  
5 it liquid? Smith told him that the stock looked very good on  
6 fundamentals, it was cheap and low risk. It was a good buy on  
7 the fundamentals and that's why Raj bought it.

8 It wasn't a hot tip. It was at least a month old by  
9 the time Smith heard about it. Remember the bake-off that  
10 Morgan Stanley didn't win had occurred around the end of March  
11 and beginning of April, a full month before this call. And  
12 Morgan Stanley wasn't involved after that. The only  
13 information it had received was preliminary and incomplete.  
14 Morgan Stanley was missing large chunks of information. That's  
15 what they said in the documents that we showed Smith.

16 Smith had no idea what had happened after the bake-off  
17 and he didn't tell Raj what had happened during the month. He  
18 admitted that on cross. Smith didn't know whether the deal was  
19 going forward or whether it had fallen apart. And it did fall  
20 apart, it never happened. Whatever it was they baked in April,  
21 it was stale by May. That's why this so-called tip isn't  
22 material. It's about the most preliminary step in a potential  
23 deal, something so preliminary that the deal itself isn't firm  
24 yet and can still fall apart, just as it did in this case.

25 Finally, remember all of these Smith stocks --

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14L8RAJ4

Summation - Mr. Dowd

1 Intersil, ICST and Vishay -- that the government has offered no  
2 evidence at all of any benefit to Kamal Ahmed. That's a  
3 necessary element of insider trading. In the absence of any  
4 evidence on it, it shows there was no insider trading and no  
5 agreement to commit insider trading, and that's why you must  
6 acquit.

7 Roomy Khan. The government also alleges that Raj  
8 conspired with Roomy Khan to obtain material nonpublic  
9 information about Google, Hilton and Polycom. But you never  
10 heard from Roomy Khan. The government has the burden of  
11 proving beyond a reasonable doubt that Roomy Khan and Raj  
12 agreed with each other to commit insider trading. But all you  
13 saw was a photo of Roomy Khan. You never heard from her. The  
14 government, which has the burden of proof, never called Khan.

15 Khan wasn't the only person missing. You never heard  
16 from any of Khan's supposed inside sources here. You never  
17 heard from Shammara Hussain, Khan's supposed source at Google.  
18 You never heard from Deep Shah, Khan's supposed source on  
19 Hilton. And you never heard from Sunil Bhalla, Khan's supposed  
20 source at Polycom. The government didn't call them. You have  
21 no idea what any of these people said to Roomy because the  
22 government presented no evidence of them. You have no idea  
23 whether these people actually spoke to Roomy Khan, when, what  
24 they talked about, because the government presented no evidence  
25 of that either.

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14L8RAJ4

Summation - Mr. Dowd

1 Let that sink in for a minute. This is supposedly an  
2 insider trading conspiracy, but you haven't heard from any of  
3 the insiders or any of the co-conspirators. And there are no  
4 recorded phone calls. The government just showed you charts of  
5 telephone records. You saw that some of those were a minute or  
6 less, and they may not have even connected. You don't know who  
7 was on the calls or what they said to each other.

8 The government also put on some representatives from  
9 the companies to talk about what was going on inside the  
10 companies at the time. But the government provided you with  
11 absolutely no evidence that any of the information was ever  
12 passed to Raj. And you can't evaluate whether that information  
13 was material or nonpublic because you don't even know what it  
14 was. You can only make assumptions and you can't convict Raj  
15 based on assumptions. The government hasn't proven its case.  
16 They haven't even come close.

17 Let's talk about Google. The government alleges that  
18 Raj sold and shorted Google in July 2007 after a call from  
19 Roomy Khan. What you know from the evidence is that Market  
20 Street Partners worked for Google and helped with its earnings  
21 announcements, that Shammara Hussain worked at Market Street  
22 Partners, that market Street was privy to the fact that Google  
23 was going to miss its earnings when it announced its results on  
24 July 19, 2007.

25 But then the government asked you to just take a leap

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Summation - Mr. Dowd

1 of faith here. It showed you a chart, Government Exhibit 57.  
2 They showed you this chart showing that Shammara Hussain and  
3 Roomy Khan talked 150 times from January 2007 through July  
4 2007. So what? JoAnn Horne from Market Street testified that  
5 Hussain didn't even begin working there until May 2007. So all  
6 the calls from January to May weren't even when she was working  
7 there.

8 And the government isn't even contending that Shammara  
9 Hussain had information about what Google would announce on  
10 July 18 until after the quarter closed on June 30. Remember,  
11 JoAnn Horne, the witness from Market Street, also told you that  
12 Google starts to work on its upcoming announcement after the  
13 quarter closes. 150 calls from January to July. That's a lot  
14 of calls that have nothing to do with this case.

15 And there is no evidence, none, that Shammara Hussain  
16 breached any duty of confidentiality. All Ms. Horne testified  
17 about is that Ms. Hussain had access to confidential  
18 information and the confidentiality policy at Market Street  
19 Partners. She said nothing at all about whether Ms. Hussain  
20 breached that duty or did anything wrong. The government has  
21 shown you no evidence that she did.

22 The government showed you another chart, Government  
23 Exhibit 58. The government showed you this chart and focused  
24 on this 22 minute call from Roomy Khan to a Galleon number on  
25 July 13. The government wants you to assume that Roomy was

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14L8RAJ4

Summation - Mr. Dowd

1 talking with Raj. The government showed you Raj's testimony to  
2 the SEC, where Raj told them Roomy Khan was someone who used to  
3 work at Galleon. So think about that. Roomy worked at Galleon  
4 in years past. Surely she knows people there besides just Raj.  
5 But did the government put Roomy Khan or anyone else on the  
6 stand to tell you who Roomy was talking to for 22 minutes?  
7 Remember, this wasn't Raj's number, it this was the Galleon  
8 number. Was it a secretary who answered? We don't know who it  
9 was and there is no evidence in the record for you to know.  
10 And that, ladies and gentlemen, is a reasonable doubt. The  
11 government hasn't proven its case.

12 The allegation boils down to the fact that Raj sold  
13 Google shares on July 13 and shorted shares of Google from that  
14 point until July 19 when it announced its earnings. We  
15 explained why. We showed you the evidence. It's not Roomy  
16 Khan and it's not inside information.

17 Remember what Mr. Schutte told you. He showed you the  
18 trading data, that Raj traded Google for many quarters. This  
19 wasn't some trade he made suddenly because Roomy Khan called  
20 him. Remember Government Exhibit 61.

21 Call up 61, Joe.

22 This is a Google graph the government showed you.  
23 They showed you that on July 13, Raj went from having a long  
24 position to a short one. See where the bar graphs go from top  
25 to bottom. We finished the story for you. We gave you the

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14L8RAJ4

Summation - Mr. Dowd

1           You don't have to guess. You don't have to assume  
2 what the government wants you to. Here it is in black and  
3 white. Raj sold on July 13 because on July 13 Google hit the  
4 550 target price that his analyst, Mr. Granoff, set two days  
5 earlier.

6           Let me make one more point about Google. Mr. Brodsky  
7 argued yesterday that one of the ways you "cover up insider  
8 trading is you avoid buying options." Well, if you look at the  
9 government's summary chart and Raj's trading in Google, it's GX  
10 460, what do you see? You see Raj buying put options not once  
11 but five separate times on July 13 and July 18.

12           Raj is buying put options and that shows there was  
13 nothing to cover up. Raj didn't have any inside information.  
14 Raj sold and shorted Google because the stock hit its 550 near  
15 term target price. That's all you need to remember about  
16 Google. That sums up why Raj did what he did, and it sums up  
17 what the evidence clearly shows was happening to the stock  
18 price. It's why you must acquit.

19           Let's talk about Hilton. Ms. Holloway from Moody's  
20 testified that she learned about Hilton's deal with Blackstone  
21 during a call she received from Hilton on July 2. Remember,  
22 the government asked Ms. Holloway if Hilton was a technology  
23 stock, and she said no. Did you find that an odd question at  
24 the time? First and foremost, the government wants you to  
25 believe there was something suspicious from the very fact that

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14L8RAJ4

Summation - Mr. Dowd

1 again. They want you to believe that Roomy Khan called and  
2 told Raj something. Another leap of faith. Do you have any  
3 evidence that Deep Shah told Roomy Khan anything about Hilton  
4 being taken over? No. There is no evidence at all in this  
5 case that Deep Shah ever breached any duty to Moody's, no  
6 testimony about his telling Roomy Khan anything at all.

7 Do you know if Roomy Khan ever reached Raj when she  
8 called, and if she did, what she said? Do you know whether  
9 they just spoke about all of the public info that was out there  
10 about Hilton being a takeover candidate? No. You have no idea  
11 because the government hasn't called Roomy Khan or introduced  
12 any evidence at all about what they said to each other, if  
13 anything. They simply haven't proven their case.

14 The government showed you a summary chart, Government  
15 Exhibit 52. Remember this graph showing Raj's purchase on July  
16 3rd of 400,000 shares of Hilton. They left that big blank  
17 space on the left to try to have you believe this purchase just  
18 came out of left field. Well, you know it didn't come out of  
19 left field. You know the 13F filings showed you that Galleon  
20 had bought Hilton since January.

21 Joe, put up DDX 16.

22 The two blue bars show Galleon's positions in Hilton  
23 as of the end of March and the end of June, as disclosed in the  
24 13F filings. And you know that there was a mountain of public  
25 information out there for anyone who was smart enough to follow

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14L8RAJ4

Summation - Mr. Dowd

1 Mr. Starr showed Ms. Holloway the government's price  
2 and volume chart on Hilton. It was Government Exhibit 129T.  
3 She read aloud the volume of Hilton trading for July 2 and July  
4 3. She testified that the volume of Hilton shares traded  
5 increased from 3.82 million shares on July 2 to 7.47 million  
6 shares on July 3 before the market closed, and the  
7 Hilton/Blackstone deal was announced after closing.

8 Professor Jarrell testified that trading in Hilton  
9 options increased more than four times that day. Yesterday Mr.  
10 Brodsky tried to dismiss that spike in options, arguing it was  
11 just because Roomy Khan bought options. But if you look at the  
12 government's own summary in GX 49, Roomy Khan only bought a  
13 total of 650 options over July 2 and 3. It doesn't account for  
14 the big increase in the general market of more than four times  
15 in options volume that Professor Jarrell described to you.

16 Ladies and gentlemen, there was no secret about  
17 Hilton. A smart investor would know that Hilton was ripe to be  
18 taken over on July 3. It was a Jefferies pick of the week  
19 recommendation, general trading volume in the market with  
20 Hilton doubling in options trading, and Hilton skyrocketing to  
21 more than four times its normal volume. If Raj hadn't bought  
22 Hilton that day, you would have to ask yourself why not. He  
23 bought it because it made sense to buy it, and he saw the  
24 reports calling it low risk, with a potential higher reward if  
25 it gets taken over.

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14L8RAJ4

Summation - Mr. Dowd

1           The government hasn't offered any evidence to support  
2 its allegation that Roomy Khan told Raj about this deal. Not a  
3 shred. It's utter unfounded speculation. You can't convict  
4 Raj on the basis of speculation. You can only convict him  
5 based on the evidence and the evidence shows that everyone knew  
6 about this deal, and that's why you must acquit him.

7           Polycom. Let me talk to you about Polycom, the last  
8 of Roomy Khan's stocks. The government alleges that Roomy Khan  
9 obtained some material nonpublic information about Polycom from  
10 Sunil Bhalla, who worked with Polycom, and then gave it to Raj,  
11 and then Raj bought Polycom. The government never called Sunil  
12 Bhalla to testify and never called Roomy Khan. There is no  
13 evidence at all Mr. Bhalla ever breached his duty to Polycom,  
14 none. There is no evidence at all that Mr. Bhalla told Roomy  
15 Khan anything about Polycom. Not a shred. There is no  
16 evidence that Roomy Khan told Raj anything that she heard from  
17 Bhalla.

18           The government wants you to assume that when Khan sent  
19 an instant message on January 9 to Raj and said, do not buy  
20 Polycom until I get guidance, that means she must have passed  
21 material nonpublic information to Raj when she called him the  
22 following day. They want you to assume the information she  
23 gave Raj was information she got from Sunil Bhalla. There is  
24 no proof of any of that, none at all. And those conversations  
25 weren't recorded and the government has offered absolutely no

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14L8RAJ4

Summation - Mr. Dowd

1 At the bottom of the page, you see Nat Cohn's meeting  
2 with Polycom at the Needham conference.

3 Joe, turn to page 1.

4 It shows that Raj was at the conference too, also  
5 meeting with companies on January 10.

6 So when the government points to Government Exhibit  
7 64, a summary chart, and asks you to believe that Roomy Khan  
8 called Raj on January 10, the day after an instant message, you  
9 need to look carefully.

10 Joe, put Government Exhibit 64 back up.

11 Look as Joe highlights the two calls from Raj to Roomy  
12 Khan on January 10. They are both listed for one minute.  
13 Agent Barnacle told you, and you know from your own common  
14 sense experience, that a call on a phone bill listed as one  
15 minute could mean the call went to voice mail or the parties  
16 may never have spoken. You know more than that. You know Raj  
17 was busy at a conference out of the office and in meetings that  
18 day. Has the government proved beyond a reasonable doubt that  
19 Raj answered the phone and had a conversation with Roomy Khan  
20 about inside information on a about stock he was already long  
21 three weeks before? Of course not. It hasn't even tried. He  
22 didn't call Roomy Khan.

23 Raj did not buy any Polycom on January 10. Raj's  
24 first purchase of Polycom in January is not until the 12th.

25 That brings us to my third point. Back to Government

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14L8RAJ4 Summation - Mr. Dowd

1 "Q. You know that sell-side analysts rarely issue conviction  
2 sells, isn't that correct?

3 "A. Yeah. They rarely issue sells, to be honest.

4 "Q. After Goldman Sachs issued that conviction sell on the  
5 Akamai stock, we know it dropped 18 percent from June 5 to July  
6 24, and then dropped another 25 percent, correct?

7 "A. That is correct."

8 We also showed you how Akamai's stock price was  
9 suffering at this time.

10 Joe, can we look at Government Exhibit 116?

11 This is the graph showing Akamai's share price, and  
12 you can see which way it's going. It's tanking. That, ladies  
13 and gentlemen, is guiding down over two months. And that's why  
14 Galleon analyst Jessica Kourakos was also recommending a short  
15 position in Akamai at this time.

16 We showed you all of Kourakos's reports and all of her  
17 e-mails to the paper portfolio. We showed you how she was  
18 recommending a short position based on the new competitive and  
19 pricing pressures that Akamai was facing. Mr. Schutte  
20 testified about all of them.

21 Raj increased his short position from July 25 through  
22 the 30th because of the public information in Kourakos's  
23 analysis, including a report that he received from Kourakos on  
24 July 25 itself. Mr. Schutte testified about that report and  
25 was admitted through him.

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14L8RAJ4

Summation - Mr. Dowd

1 This analysis, based on all of the public information,  
2 about Akamai's new competition and pricing pressure was why Raj  
3 shorted the stock, and it is why he continued to short the  
4 stock as the earnings announcement approached. That's why he  
5 shorted the stock on July 25, 29 and 30. It wasn't because  
6 Chiesi told Raj something about her guy on July 24. And how  
7 can you be sure? Because Raj was already short before the call  
8 on July 24. He had been shorting Akamai stock all month.

9 Pull up Defense Exhibit 4669M.

10 This chart shows Raj's trading in Akamai in July 2008.  
11 It shows that he shorted the stock on July 2, July 3, July 10,  
12 July 17, July 18, all before the call from Chiesi.

13 Raj even told Chiesi that he was already short on the  
14 call that the government played. He said, "I'm already there."  
15 And he was. Raj was already short. And the information was  
16 already public. There is just no case here.

17 What about the second intercept where Raj thanks  
18 Chiesi? The government says he is thanking her for a tip.  
19 Ladies and gentlemen, let's look at that call closer. What is  
20 Raj really saying that they didn't show you?

21 Joe, pull up Government Exhibit 543T.

22 "Raj: You know what I think, you did it in such a  
23 classy way, in the sense that you didn't call him, you know,  
24 and that way you maintain the relationship."

25 Ladies and gentlemen, you are free to believe your

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14L8RAJ4

Summation - Mr. Dowd

1           You didn't hear from Rajat Gupta. You saw his picture  
2 but he didn't testify. The government didn't call him. You  
3 did hear about Mr. Gupta. Lloyd Blankfein told you about Mr.  
4 Gupta. Mr. Blankfein told you that Mr. Gupta was one of the  
5 most prominent and well-respected businessmen in the world.  
6 Mr. Blankfein told you that Mr. Gupta had a reputation for  
7 integrity that was beyond reproach. This is what Mr. Blankfein  
8 said.

9           Joe, if we could have day 10, page 1769, at line 10.  
10 "Q. You would agree that the people elected to serve on  
11 Goldman's board of directors are distinguished individuals,  
12 correct?

13 "A. Yes.

14 "Q. In fact, Goldman directors are some of the most  
15 accomplished and highly regarded businessmen and women in the  
16 world?

17 "A. I think so -- I certainly think so.

18 "Q. And Rajat Gupta was no exception, was he?

19 "A. Not at all.

20 "Q. He was a highly esteemed individual in the business  
21 community?

22 "A. Yes.

23 "Q. And his reputation for integrity was beyond reproach?

24 "A. Yes."

25           In fact, Mr. Blankfein thought so highly of Mr. Gupta

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Summation - Mr. Dowd

1 homework. He is gathering information so he can ask smart  
2 questions when he meets with Gary Cohn. And he is not asking  
3 these questions because he wants to trade on this information.  
4 He is asking these questions because he's a client of Goldman  
5 Sachs, a first tier client of Goldman Sachs, concerned about  
6 Goldman's long-term liability.

7 Remember, Galleon didn't just invest in Goldman Sachs  
8 stock. Galleon was a big client of Goldman Sachs.  
9 Mr. Blankfein testified to that. Galleon used Goldman Sachs  
10 for brokerage services, which means Galleon placed trades  
11 through Goldman, millions of dollars worth of trades. Goldman  
12 held huge brokerage balances for Galleon, \$600 million worth of  
13 investor money. That wasn't Raj's money. It was his  
14 investors' money. But Raj was responsible for that money and  
15 responsible for making sure it was safe. And that meant making  
16 sure the banks where it all that money was kept, including  
17 Goldman Sachs, were financially stable.

18 Remember, this was July of 2008 when everything was  
19 falling apart. Investment banks like Goldman Sachs were in  
20 serious trouble. Bear Stearns had collapsed. Lehman Brothers  
21 collapsed just a couple of weeks after this call. And people  
22 were worried that the same thing might happen to the other  
23 investment banks including Goldman Sachs. Raj wanted to make  
24 sure the same thing wasn't going to happen to Goldman Sachs  
25 while he was holding hundreds of millions of dollars of

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Summation - Mr. Dowd

1 Galleon's investor money. He wasn't doing anything wrong. He  
2 was simply being a responsible caretaker for his investors'  
3 money. That's why he had meeting with Mr. Cohn and that's why  
4 he asked Rajat Gupta these questions.

5 Mr. Schutte testified about this. He told you about  
6 the scare that Galleon had when Bear Stearns almost went  
7 bankrupt holding 200 million of Galleon's investor money. He  
8 told you that Galleon was concerned the same thing might happen  
9 with Goldman. He told you this was one of the things they  
10 discussed with Mr. Cohn at the meeting they had. Mr. Schutte  
11 also told you that there had been public discussion around this  
12 time about the possibility of Goldman shoring up its asset base  
13 by merging with a commercial bank. We showed you the news  
14 articles where that had been publicly discussed. You saw them  
15 when we examined Mr. Blankfein and Mr. Schutte. Mr. Schutte  
16 testified that this was one of the things they discussed with  
17 Mr. Cohn when he came over to Galleon.

18 Ladies and gentlemen, this call on July 29 between Raj  
19 and Rajat Gupta had nothing to do with insider trading and had  
20 nothing to do with a conspiracy to commit insider trading. It  
21 had to do with the stability of Goldman Sachs in a volatile  
22 market. It's a perfect example of why you need to view all  
23 these recorded calls in context. This is very serious stuff  
24 because the government just doesn't get it. It doesn't  
25 understand this call.

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Summation - Mr. Dowd

1 All this reflects is Raj getting ready for an  
2 important meeting with Goldman's chief operating officer, and  
3 that meeting had nothing to do with trading stock. Goldman  
4 held hundreds of millions of dollars of Galleon's investor  
5 money and Raj was just making sure that money was safe. He did  
6 nothing wrong by asking Mr. Gupta these questions, and Mr.  
7 Gupta did nothing wrong by answering them. Mr. Gupta wasn't  
8 giving Raj information so Raj can trade on it. He was giving  
9 Raj information because Galleon was a huge Goldman client  
10 concerned about Goldman's stability.

11 And Mr. Gupta wasn't violating a fiduciary duty by  
12 giving Raj this information. Far from it. Mr. Gupta was  
13 acting in Goldman's best interests. He was simply reassuring a  
14 concerned client, a concerned major client, that Goldman was  
15 considering all available options to remain stable and solvent.  
16 Gupta wasn't putting his own interests ahead of Goldman's  
17 interests. That's what a breach of fiduciary duty is and  
18 that's what the government has to prove. Mr. Gupta was acting  
19 in Goldman's best interests and it had nothing to do with  
20 insider trading.

21 I ask you to keep these things in mind as you address  
22 the government's other allegations about Goldman Sachs.  
23 Because all of the government's Goldman Sachs allegations ride  
24 on this one call. Their theory is that this one shows that  
25 Gupta was willing to give Raj confidential information about

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14L8RAJ4

Summation - Mr. Dowd

1 Goldman. It's the only call with Gupta they played for you.  
2 The call has nothing to do with the other Goldman allegations  
3 except they bootstrap on this one call because they think it  
4 showed Gupta doing something wrong. That's not what it shows  
5 at all. It shows Raj being responsible in managing investors'  
6 money and it shows Gupta being a loyal responsible director of  
7 Goldman Sachs.

8 Let's talk about the Berkshire Hathaway investments.  
9 Goldman Sachs received an investment of \$5 billion from Warren  
10 Buffett's company Berkshire Hathaway in late September 2008.  
11 And the deal was announced after the market closed September  
12 23, 2008. The government alleges that Mr. Gupta tipped Mr.  
13 Rajaratnam about this investment before it was announced. The  
14 government claims that Mr. Gupta communicated this information  
15 to Mr. Rajaratnam on a telephone call on the afternoon of  
16 September 23, 2008, before the investment was announced. That  
17 call lasted less than a minute and it wasn't recorded and you  
18 don't know what was said.

19 The government wants you to assume that Mr. Gupta told  
20 Raj about the Berkshire Hathaway investment. You can't convict  
21 Raj based on assumptions. You can only convict him based on  
22 the evidence. There is absolutely no evidence that Mr. Gupta  
23 said anything about it. Raj did buy shares of Goldman Sachs on  
24 the afternoon of September 23, but it wasn't the first time he  
25 bought Goldman shares. In fact, he was long in Goldman stock

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14LFRAJ5

Summation - Mr. Dowd

1 MR. DOWD: Keep that fact in mind as we look at the  
2 chart the government showed you yesterday. Joe, pull up GX 73.  
3 This is the chart the prosecutor showed you yesterday. The  
4 point of the chart is to show also telephone calls between Raj  
5 and Mr. Gupta on September 22nd and the morning of  
6 September 23rd before each of the trades I just talked about.  
7 This simply demonstrates how misleading it is to put calls and  
8 trades next to each other on charts and suggest one had  
9 something to do with the other. Because remember at the time  
10 of the two earlier calls and the two earlier trades, Mr. Gupta  
11 didn't even know about the Berkshire Hathaway investment. He  
12 had no news of any significance to tell Raj in these earlier  
13 calls even if he wanted to. Goldman's board didn't learn of  
14 the Berkshire deal yet. Remember that whenever the government  
15 tries to say there's something important about the mere fact  
16 that the telephone call and the trade were close together in  
17 time, if you don't know what was said on the call, you can't  
18 tie the two together. That's what this chart really shows.

19 The government's chart doesn't even reflect all of  
20 Raj's trading in Goldman. The government's chart simply omits  
21 Raj's trading before September 22. Raj did trade, we showed  
22 you that. We gave you the full picture. Defense Exhibit  
23 4679M. These are Raj's other trades. You can see that Raj was  
24 actively trading Goldman stock going back to September 16, long  
25 before anybody knew about the Berkshire Hathaway investment.

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14LFRAJ5 Summation - Mr. Dowd

1 And if you add it up, it shows that Raj was long over 150,000  
2 shares before the government alleges he knew about the  
3 agreement. The government didn't show you that. It's not on  
4 their chart. That's because it shows that Raj must have had  
5 some other reason for buying Goldman stock.

6 The other reason was TARP. TARP was the troubled  
7 asset relief program. It was a law that was being debated in  
8 Congress at the time that was entirely potent. Raj believed  
9 that TARP was going to be good for Goldman Sachs and the whole  
10 financial section. Raj was monitoring TARP with his  
11 economists. TARP was a subject of discussion within Galleon.  
12 Mr. Schutte told you about that. Mr. Schutte told you Raj led  
13 those discussions about TARP. Mr. Schutte told you that  
14 passing TARP would be something good for Goldman and something  
15 good for the entire financial sector. Mr. Schutte was right  
16 and Raj was right, TARP was something good for Goldman. In  
17 fact, Mr. Blankfein told the prosecutor that TARP was a lot  
18 better for Goldman Sachs than the Berkshire Hathaway  
19 investment. Joe, if we could pull up day 10, page 1822, lines  
20 3 through 11.

21 "Q. Now, I believe you testified that the Berkshire investment  
22 involved a receipt of cash from Mr. Buffet in exchange for  
23 stock and warrants.

24 "A. Yes.

25 "Q. Is that comparable to what TARP ended up being in some

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14LFRAJ5

Summation - Mr. Dowd

1 respect?

2 "A. Yes. In fact, TARP was a bigger amount on much more  
3 favorable terms. In other words, the government didn't charge  
4 nearly as much as Warren Buffet did."

5 Because TARP was going to have such impact on the  
6 financial industry, Galleon hired a consultant to watch the  
7 legislation and report back. And the same day as the telephone  
8 call the government is fixated on, Galleon's consultant firm  
9 reported back. This is what they said. Government Exhibit  
10 3716. This is the e-mail that Galleon received from its  
11 consulting firm on September 23rd at 3:29 p.m. that says, "We  
12 remain committed to our view that the bill will pass in the  
13 coming days."

14 Ladies and gentlemen, that's why Raj bought Goldman  
15 stock. The government hasn't even tried to prove otherwise.  
16 The government simply asked you to assume that Mr. Gupta told  
17 Raj about the Berkshire Hathaway investment. It has absolutely  
18 no evidence of that. It just asks you to assume. Please don't  
19 assume anything. I just want you to consider what the evidence  
20 actually shows. It shows that Raj bought this stock for a  
21 reason that had nothing to do with a telephone call from  
22 Mr. Gupta. We know that because he was already buying Goldman  
23 stock before the telephone call and you know that he had  
24 another reason for buying it, TARP. TARP was something good  
25 for Goldman Sachs, but it wasn't good for Goldman Sachs alone.

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14LFRAJ5 Summation - Mr. Dowd

1 1 million shares of XLF.

2 Joe, can we have Defense Exhibit 4679L? There you see  
3 Raj's purchase of 1 million shares of XLF compared to just over  
4 200,000 shares of Goldman. Yesterday the prosecutor told you  
5 that Goldman was the only bank Mr. Rajaratnam bought on  
6 September 23rd. He said that our explanation about TARP  
7 doesn't make sense because it wasn't clear which banks would be  
8 getting the TARP money and Raj didn't buy any other banks other  
9 than Goldman. Well, the prosecutor got it exactly wrong. Raj  
10 bought stock in every other bank on September 23rd. That's  
11 what XLF is, a basket containing stocks across the financial  
12 sector. You buy XLF precisely because you're expecting good  
13 news for the entire financial sector.

14 Raj wasn't the only one at Galleon expecting good news  
15 for the financial sector that afternoon. Joe, please turn to  
16 page 4679M, third page of 4679M. There you have the trades of  
17 Gary Rosenbach, another portfolio manager. Rosenbach was the  
18 one who placed Raj's trades for him that day, and there you see  
19 that Mr. Rosenbach himself bought 500,000 shares of XLF at the  
20 same time. Mr. Rosenbach also bought 200,000 shares of Morgan  
21 Stanley and just 50,000 shares of Goldman. Ladies and  
22 gentlemen, this pattern of trading proves that Raj was trading  
23 on the expectation that news would be good for the financial  
24 sector as a whole. That's why he bought XLF, that's why  
25 Mr. Rosenbach who placed the trades for him bought XLF and

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14LFRAJ5

Summation - Mr. Dowd

1 Raj bought five times the amount of shares in XLF he bought in  
2 Goldman Sachs, not when Raj's trader bought 200,000 shares of  
3 Morgan Stanley and 500,000 shares of XLF the very same time.  
4 Not when Raj was already long in Goldman Sachs before the call  
5 from Gupta and before Gupta even knew about the Berkshire  
6 Hathaway deal.

7 Has the government proved beyond a reasonable doubt  
8 that Rajiv Gupta told Raj about the Berkshire Hathaway  
9 investment? Not even close. The government carries the burden  
10 and they have not proven their case and in that case I must ask  
11 you to acquit.

12 Let's take the fourth quarter 2008 earnings. The  
13 government alleges that Raj obtained material non-public  
14 information from Mr. Gupta concerning Goldman's earnings for  
15 the fourth quarter 2008. As usual, the government wants you to  
16 focus on one piece of evidence and exclude every other factor  
17 in the world. One piece of evidence is Government Exhibit  
18 678T. Joe, please pull up Government Exhibit 678T. This is  
19 the conversation that Raj had with Galleon portfolio manager  
20 David Lau on October 24, 2008, on page 2, lines 14 through 17.

21 "Um, now I heard from somebody who's on the board of  
22 Goldman Sachs that they're going to lose \$2 per share. The  
23 Street has them making 2.50."

24 That's it. That's the one piece of evidence the  
25 government wants you to focus on to the exclusion of everything

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Summation - Mr. Dowd

1 else. They even want you to ignore what Raj says immediately  
2 after this in the very same call. They want you to ignore it  
3 because it's completely contrary to their theory. Look at what  
4 he says.

5 "You know. Yeah. Now, I can get that number, you  
6 know. One, they don't report until December. They, I think  
7 their quarter ends in November 31, but you know they have these  
8 huge marks in ICBC and all that other stuff, right? That, uh,  
9 is getting absolutely clobbered, you know?"

10 "Lau: Right.

11 "What he was telling me was that Goldman the quarter's  
12 pretty bad. They have zero revenues because their trading  
13 revenues are offset by asset losses. And to date they lost \$2  
14 per share. They just announced a ten percent cut and you know  
15 the basic business is old, but you know this is tough for them.  
16 I don't think that's built into the Goldman Sachs stock price.  
17 So if it gets to 105, I'm going to -- it's 99 now. It was at  
18 102. I was looking for 105. I'm going to whack it, you know."

19 Ladies and gentlemen, that is not evidence of insider  
20 trading. That's evidence of a legitimate analysis based on  
21 public information. Because what Raj is discussing with David  
22 Lau on this call are two pieces of public information, when Raj  
23 says he can get the number based on two pieces of public  
24 information. Remember, this is October 24. This is two months  
25 before earnings are announced. There's a whole month left in

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Summation - Mr. Dowd

1 the quarter. The number doesn't exist yet. But Raj says he  
2 can get it from two pieces of public information. Those pieces  
3 of public information are Goldman's layoff of 10 percent of its  
4 work force and the decline in value of Goldman's investment in  
5 the Industrial Commercial Bank of China, ICBC.

6 Raj says he doesn't think Goldman's share price  
7 accurately reflects the effect of these two pieces of public  
8 information and of course he's right because they both just  
9 happened the day before. That's what Raj says right in this  
10 call in the part the government doesn't want you to pay  
11 attention to. They want you to ignore that part of the call  
12 because it shows Raj is in the act of analyzing the company's  
13 share price based on public information. It shows him doing  
14 exactly what good analysts do. And there's no question that  
15 both the layoff and the exposure to ICBC were public. We show  
16 you the public information.

17 Joe, please call Defense Exhibit 2811. This is an  
18 article in the Wall Street Journal dated October 23rd, 2008.  
19 That's the day before Mr. Rajaratnam's call to Mr. Lau, and it  
20 reports that Goldman is going to lay off 10 percent of its  
21 32,500 employees, which is exactly what Raj said on the call  
22 with David Lau the next day. It was public.

23 Call up Defense Exhibit 2735. This is Goldman Sachs'  
24 quarterly financial report from the third quarter of 2008. On  
25 page 071 it notes that Goldman had the \$7.137 billion

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Summation - Mr. Dowd

1 investment in ICBC, of which 2.6 billion was Goldman's own  
2 money. And on page 072 it says this ICBC holding is Goldman's  
3 most significant single public investment, which was a huge  
4 investment. Mr. Blankfein confirmed that during his testimony.  
5 That's exactly what Raj said on this call with Mr. Lau, and it  
6 was public.

7 Pull up Defense Exhibit 2750. This is a chart showing  
8 the decline in ICBC share price and reflects that ICBC had lost  
9 37 percent of its value between the time of Goldman's last  
10 quarterly report and Raj's conversation with Mr. Lau. ICBC was  
11 getting clobbered. And that's exactly what Raj said to  
12 Mr. Lau, and it was public. That's how Raj could get the  
13 number.

14 Mr. Schutte walked you through the math. He told you  
15 exactly how you get \$2 per share. Ladies and gentlemen, that's  
16 not insider trading. That's analysis, real good analysis. And  
17 it's what you see Raj doing on the phone call with David Lau,  
18 and that's why you can't just look at one piece of information  
19 to the exclusion of everything else. You have to look at the  
20 total mix of information. That's what Judge Holwell is going  
21 to instruct you, and here the total mix of information enabled  
22 Raj to do the math himself and arrive at that \$2 figure. It  
23 was public, it wasn't material and the government hasn't even  
24 tried to prove otherwise. It just wants you to ignore  
25 everything else except one sentence of one telephone call.

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14LFRAJ5

Summation - Mr. Dowd

1 The government also pointed out that Raj sold his  
2 shares of Goldman Sachs stock on the same day as this call.  
3 Well, he had very good reason to. In addition to the layoff,  
4 the huge loss in ICBC, there was other bad news for Goldman  
5 that day. Goldman's own share price fell 5 percent on  
6 October 23rd. We showed you that. Mr. Schutte testified about  
7 it.

8 Second, on the morning of the 24th, before Raj's call  
9 with Mr. Lau, ICBC issued its own quarterly earnings statement  
10 which was bad, which sent the stock even lower. We showed you  
11 that, too. Mr. Blankfein testified about it. Professor  
12 Jarrell testified that all this public information about  
13 Goldman Sachs at this time supported selling the stock. That's  
14 why Raj sold his Goldman shares. It wasn't because of anything  
15 Rajat Gupta told him. He sold his shares because Goldman was  
16 getting clobbered from all sides.

17 Finally, ladies and gentlemen, you need to consider  
18 the full picture of Raj's trading. The government only showed  
19 you one piece. Joe, call up Government Exhibit 76. This is  
20 the chart of Raj's trading in Goldman Sachs and it stops  
21 October 24, 2008. Remember, remember, the government's  
22 allegation is that Raj conspired with Gupta to obtain material  
23 non-public information above Goldman's earnings for the fourth  
24 quarter of 2008. Those earnings were not announced until  
25 December 17, 2008. But the government hasn't shown you how Raj

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14LFRAJ5

Summation - Mr. Dowd

1           Let's talk about Kris Chellam and Xilinx. The  
2 government alleges that Kris Chellam tipped Mr. Rajaratnam in  
3 November, December 2006 about Xilinx's revenue for the third  
4 quarter of 2006 in advance of Xilinx's business update of  
5 December 7, 2006. You heard the allegation, but that's all it  
6 is, an allegation. The government hasn't offered any evidence  
7 to support its claim that Mr. Rajaratnam obtained inside  
8 information about this event.

9           You haven't heard from Mr. Chellam. You only heard  
10 about Mr. Chellam. What have you heard? Adam Smith claimed he  
11 received confidential information about Xilinx from  
12 Mr. Rajaratnam. Mr. Rajaratnam received it from Mr. Chellam.  
13 That's it. The government has offered absolutely nothing to  
14 support or corroborate Mr. Smith's testimony. And you know you  
15 can't believe Smith. Smith couldn't even tell you what the  
16 information was he allegedly received. He couldn't tell you  
17 when he received it. All he could say is he was a portfolio  
18 manager in 2006, he traded in Xilinx stock based on information  
19 he claims came from Mr. Rajaratnam. He didn't say what the  
20 information was or when he got it. He also couldn't tell you  
21 whether Raj traded on any information from Chellam. Is that  
22 proof beyond a reasonable doubt? It's not even close.

23           You also heard from Mr. Muscha, Xilinx's witness.  
24 Mr. Muscha told you that Chellam was the CFO of Xilinx.  
25 Mr. Muscha told you that as CFO Chellam was the company's voice

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Summation - Mr. Dowd

1 to Wall Street. He also agreed that as the CFO, Mr. Chellam  
2 was trained according to policies in the company as to what he  
3 can and cannot say to investors. Mr. Muscha was the only  
4 government witness from Xilinx and he told you that for all he  
5 knew every conversation between Mr. Chellam and Mr. Rajaratnam  
6 was perfectly legal and appropriate.

7 That should be the end of the story, but there's more.  
8 On direct the government showed Mr. Muscha a handful of  
9 internal Xilinx documents that were sent to Mr. Chellam. The  
10 government offered no evidence whatsoever that those documents  
11 or the information in those documents was ever provided to  
12 Mr. Rajaratnam. In fact, Mr. Muscha admitted to you on the  
13 stand that he had no knowledge Mr. Chellam ever shared  
14 confidential information in any of the documents outside the  
15 company. That should be the end of the story. But there's  
16 more.

17 You heard during cross-examination and on the direct  
18 of Mr. Schutte that outside analysts based on fundamental  
19 research predicted that Xilinx would lower expectations on  
20 December 7, 2006. Mr. Muscha and Mr. Schutte testified about  
21 those reports. The government also showed you a chart  
22 reflecting a bunch of telephone calls potentially involving  
23 Mr. Chellam and Mr. Rajaratnam in November-December 2006. You  
24 don't know what was said on any of those calls. The government  
25 didn't call Mr. Chellam. You don't know if Mr. Rajaratnam and

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14LFRAJ5

Summation - Mr. Dowd

1 advance of the acquisition announcement and Raj traded in  
2 Goel's account on the basis of that information. There's no  
3 evidence of that. There's no evidence that Mr. Panu told Raj  
4 anything; none, not a shred. Mr. Panu didn't testify. The  
5 government didn't call him. There are no recorded phone calls,  
6 there are no e-mails, there are no instant messages. There's  
7 absolutely zero evidence that Mr. Panu told Raj anything about  
8 this deal. The evidence that does exist contradicts the  
9 government's theory.

10 In reality, Raj sold shares of @Road, both at Galleon  
11 and in Goel's account before the acquisition. That's not what  
12 you do if you're trading on inside information that @Road is  
13 about to be acquired. Doesn't make any sense. It doesn't make  
14 any sense because it's not true. What does make sense is what  
15 you heard from Mr. Schutte. @Road was Raj's best idea in  
16 Galleon's stock picking contest throughout 2006. Raj  
17 recommended a long position in @Road.

18 Joe, pull up Defense Exhibit 0328, page 3. This is  
19 Galleon's best stock idea contest in March 2006. Raj's top  
20 pick, ARDI, which was the ticker symbol for @Road. He  
21 recommended a long position in @Road all the way back in March.  
22 @Road stock price had gone up substantially the week before  
23 Mr. Rajaratnam began selling. Mr. Rajaratnam sold when the  
24 price went up, which is a basic and logical investment  
25 strategy.

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Summation - Mr. Dowd

1 Ladies and gentlemen, the government has offered no  
2 evidence to support its allegation on @Road and we've shown you  
3 evidence which directly refutes it, and I respectfully request  
4 you acquit.

5 Now, the so-called coverup. Yesterday, ladies and  
6 gentlemen, Mr. Brodsky said that you know Raj is guilty because  
7 of the so-called cover up. He addressed eight things he said  
8 Mr. Rajaratnam did to cover up his activities. I've addressed  
9 each of these things today, but to briefly summarize, number  
10 one on the list was the use of the phone, not e-mails. But the  
11 government's relied on e-mails and instant messages in a number  
12 of occasions in this case. There's no evidence at all other  
13 than the uncorroborated, unreliable testimony of Adam Smith to  
14 support the idea that Raj told anyone not to put things in  
15 writing. And all they showed you was one instant message  
16 between Raj and Quint Slattery where Raj said he would tell  
17 Quint something on the phone. Big deal. Have you ever sent  
18 anyone an e-mail or texted saying call me? Are you committing  
19 a crime?

20 And where is Mr. Slattery? The government didn't call  
21 him. It's ridiculous, it's grasping at straws. If this case  
22 was as serious as the government wanted you to believe, they  
23 wouldn't be grasping at straws.

24 Number two on the list was create e-mails. That would  
25 be to pass on the call with Panu and Chellam about Spansion. I

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Summation - Mr. Dowd

1 explained to you why the government has misinterpreted the  
2 call, and that I everything was true. By the way no e-mail  
3 trail was ever created, the government never showed you. Don't  
4 you think they would have if there was anything to this  
5 allegation? The rest of the testimony of Adam Smith, you know  
6 what that's worth. It's worthless. Number three on the list  
7 was show a pattern of trading. I've shown that already. All  
8 Raj was doing was trading around a core position. But most  
9 importantly, no effort to hide his trading at all. As the  
10 government's own chart showed. Those charts came from Galleon  
11 records. You can see every trade Raj made and why. Number  
12 four was radio silent. I explained that one, too. Raj was  
13 just protecting his own ideas. He was trying to keep his  
14 trading strategies from being spread around Wall Street.

15 Number five was conceal payments to inside sources.  
16 One thing, Raj didn't have any inside sources, and Raj didn't  
17 conceal any payments. Payments to Kumar were transparently  
18 documented by Galleon and Instinet. Kumar is the one who  
19 concealed it from the IRS. The rest of that call with Rengan,  
20 where Rengan himself says he's joking, it came to nothing.

21 Number six is don't use options. I already showed you  
22 Raj did use options on Akamai and Google. How they missed that  
23 one on their own two exhibits are beyond me. It just shows you  
24 how desperate things are getting.

25 Number seven is use prepaid phones. All you got is

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Summation - Mr. Dowd

1 Kumar's testimony and that testimony is worthless. There's no  
2 evidence to support a corroboration that Raj ever used a  
3 prepaid phone, ever bought a prepaid phone or ever had anyone  
4 buy a prepaid phone. That's nonsense. Number eight is access  
5 brokerage account of insider to make trades. This must be  
6 about trading in Goel's account. Goel asked his friend to do  
7 it. There's no coverup. Again, it was some remark by Kumar,  
8 but Kumar's testimony is worthless. He is the worst liar ever  
9 to take the stand in any courtroom in this building. There's  
10 nothing suspicious, ladies and gentlemen. There was no  
11 coverup.

12 Ladies and gentlemen, I'm not going to take any more  
13 of your time. You've been more than generous. I appreciate  
14 it. Raj thanks you for your attention and consideration over  
15 the last many weeks. You're not going to hear from me again.  
16 The government gets the first word and the last and it's given  
17 that advantage because it bears the burden of proof. Remember  
18 to hold them to that to when you retire to deliberate. I'm  
19 confident you'll agree with me that they haven't proven their  
20 case. But I know you'll be fair. I helped pick you. I have a  
21 lot of confidence in you. I want to thank you very much.

22 THE COURT: Thank you, Mr. Dowd. That concludes the  
23 defendant's closing argument. We'll take our afternoon break  
24 and then Mr. Streeter will give the government's rebuttal.

25 Counsel approach.

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Summation - Mr. Dowd

1 (Jury excused)  
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Summation - Mr. Dowd

1 (At the side bar)

[REDACTED]

1 (In open court; jury present)

2 THE COURT: Mr. Dowd, there was one last document you  
3 wanted to refer to?4 MR. DOWD: Yes. Thank you. I'd just like to refer  
5 the members of the jury when I mentioned that there was no  
6 benefit at Goldman Sachs, I'd just like to refer to Defense  
7 Exhibit 4689M, if you would. Thank you very much, your Honor.  
8 I appreciate it.

