Defense Objections to the Pre-Sentence Report (docket no. 341), pp. 2-5:

The truth is that Mr. Watson is not a fraudster and that OZY is not a criminal enterprise, as the government alleged. Mr. Watson and OZY did not engage in a conspiracy to commit securities fraud, conspiracy to commit wire fraud, or aggravated identity theft. The truth is that Mr. Watson, marshaling his own resources, his family's financial support (Exhibit A), and the contributions of hundreds of employees and contractors (Exhibit B), built OZY into a real and viable company that published five newsletters, produced fourteen television shows, produced top ten podcasts, built a cutting edge awards program, put on four festivals (Exhibit C), and developed more than 200 revenue-generating partnerships with top-tier advertisers like Coca-Cola, Target, and Wal-Mart. Mr. Watson helped OZY win an Emmy award (Tr. at 1160, 1364, 1607, 2925, 2932) for best docuseries in 2020 and submitted two series for Pulitzer Prize consideration (Tr. at 3408, 3428). OZY was an attractive company that competitors such as BuzzFeed tried multiple times to acquire, finally offering up to $300 million dollars. *See* Exhibit C1. And in fact, when OZY was attacked by its conflicted and would-be acquiror Smith in September 2021, sophisticated investors banks such as JP Morgan were preparing to value OZY at $2 billion, making the young company the first Black "unicorn" in Silicon Valley History. *See* Exhibit C2.

Mr. Watson was the visionary and entrepreneur, known as "Mister Outside." He oversaw content, set the company's strategic direction, brought in investors and advertisers, and stood up a robust corporate governance infrastructure by engaging reputable outside law firms, investment banks, board members, and accounting firms. Mr. Watson instilled a culture of being "blisteringly honest" at OZY (as a witness for the government, Tripti Thakur, wrote in her resignation email, which the government used as evidence against Mr. Watson).

More, Mr. Watson and his family consistently invested their own money each time OZY raised capital from investors. Mr. Watson deferred salary and secondary stock sales to free up the funds to hire more people, produce strong programs, and grow the company's infrastructure. In total, Mr. Watson and his family invested approximately $20 million in OZY, including cash, deferred salary, and deferred stock options. Tr. at 3013-15. Fraudsters do not build real companies, establish outside control and accountability mechanisms, foster a culture of honesty, and invest their own money and their family's money in a fraudulent enterprise.

By contrast, the government's cooperators, Samir Rao and Suzee Han, functioned as "Mister Inside" and "Miss Inside," responsible for finance, tech, and operations. But as OZY grew quickly from a digital-only operation to a bustling five-part new media company, Mr. Rao and Ms. Han found themselves unable to keep up with OZY's growth and lacked the skills to perform their functions competently. *See* Exhibit D (Rao and Han communications). Some of those shortcuts Mr. Watson could see and advised Mr. Rao and Ms. Han to fix, such as pushing them to properly account for all of OZY's revenue including missing contracts, strategic barter revenue and both gross and net revenue, or recommending that they bring in more senior talent and auditors to help. *See* Exhibit E. Mr. Watson hired outside consultants such as BRG to validate OZY's audience and delivery metrics and a former Time Warner finance executive and a former New York Yankees CFO to vet OZY's revenue numbers when he caught wind of Mr. Rao and Ms. Han's potential deception.

OZY employees, including some of the government's own witnesses, knew that Mr. Rao engaged in his deceptive acts alone. For example, when Ms. Thakur, who was looking to quit OZY anyway (*see* Exhibit E1), resigned after discovering Mr. Rao's forged OWN contract, Ms. Thakur made it clear that it was Mr. Rao who had engaged in deceit; Ms. Thakur emailed Mr. Rao's wife underscoring her disappointment in Mr. Rao (not in Mr. Watson); and subsequently Ms. Thakur messaged Mr. Watson on LinkedIn multiple times to express her admiration for him — behavior inconsistent with that of a former employee who believes their boss directed them to commit a felony. *See* Exhibit F (Thakur LinkedIn messages) Mr. Watson hired three top tier law firms at different points and four investment banks to ensure compliance, especially during Series C, D and E fundraising rounds. *See, e.g.,* Exhibit G (Series C governance process). Mr. Watson also actively sought the participation and input of investors and board members, including Tom Franco, Mike Moe, Laurene Powell Jobs, and Maurice Werdegar. Indeed, OZY's board met rough quarterly or semi-annually on a formal basis and there were weekly if not daily calls in between. Mr. Watson and the OZY team reviewed each aspect of OZY's business with investors in detail.

Despite Mr. Watson's efforts to build a fulsome culture of compliance, Mr. Rao engaged in shortcuts and elaborate deceptions that were designed to elude detection. A non-exhaustive list of Mr. Rao criminal acts, to which he admitted, includes: doctoring OZY's general ledger; orchestrating a juggling act to manage OZY's loans with merchant lenders; fabricating documents and providing fake invoices and UCC termination emails to lenders; forging at least one contract as part of the BuzzFeed due diligence process; registering a fake website and creating multiple fake email personas to impersonate an OWN employee (Exhibit H, GoDaddy records); and forging the signature of an OWN partner on a contract and sending the altered contract to Hanmi Bank. *See* Exhibit I (Rao explaining to the FBI his intricate modus operandi for forging the contract sent to Hanmi Bank).

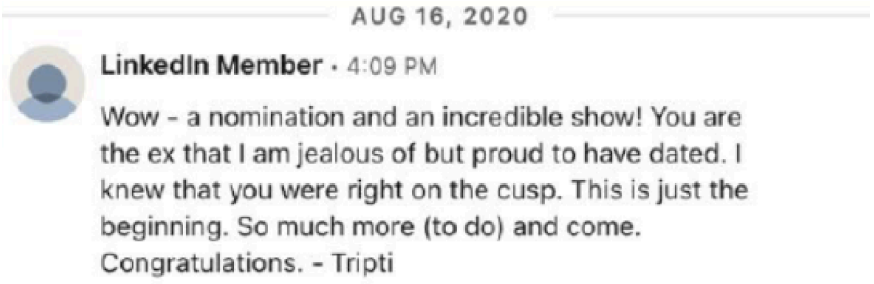
To address the PSRs' (and the government's) main contentions:

First, OZY's revenue was not inflated and OZY's investors did not rely on OZY's revenue statements in valuing OZY. Mr. Watson had a working knowledge of OZY's revenue numbers, but he did not receive or review weekly internal revenue numbers from Mr. Rao and Ms. Han, as multiple witnesses for the government and the defense testified. The most important and material items for OZY's early stage investors - - and hence the greatest focus of OZY's board and investor decks - - were OZY's vision, content, diversified business model and key partnerships. Revenue, especially historical revenue, was simply not a central factor to OZY's early-stage investors as it is not at other startups. And the sophisticated investors who sought to invest money in OZY proactively discounted OZY's numbers in calculating their potential return on investment - - hence Goldman's determination that even if OZY's revenues were substantially discounted, Goldman would still expect to triple its money. *See* Exhibit J at 34-35 (Goldman's investment memo estimating that "If 2025 TV Revenue is ~50% of our base case we earn a 3.0x").

In fact, Mr. Rao's and Ms. Han's accounting and bookkeeping errors had the effect of actually understating, rather than overstating, OZY's revenue. Between 2016 and 2021, their pitch decks disclosed pro forma gross revenue of $182 million, when in fact according to analysis by Bland Waxman and later by TechCXO, OZY actually delivered $186 million in pro forma gross revenue. Mr. Rao and Ms. Han failed to properly account for key contracts from JP Morgan, Discover, Intuit and others; failed to account for millions in valuable strategic barter revenue; failed to track both gross and net revenue; and conflated cash and accrual accounting standards.

Second, the Goldman call has been mischaracterized from the very beginning: it was never a "pitch call." Goldman had already signed a term-sheet on January 18, 2021 committing to invest in OZY. (See Exhibit J1). The February 2, 2021 call was but a reference call — and the eighth reference call at that. While that does not excuse Mr. Rao's conduct, the context makes the call qualitatively different from how it was portrayed and thus there never was any fraud within the meaning of the federal statutes. As for the reference call, Mr. Watson did not engage in identity theft, and Goldman's own post-call conduct shows that Mr. Rao's impersonation call was not material to this investor. *See* Exhibit J2. Furthermore, Mr. Rao admitted, in multiple contemporaneous confession letters and to the government's own investigators, that he and he alone decided to impersonate the Google executive on the Goldman reference call. *See* Exhibit K (Rao's confession letters); Exhibit L (Han's FBI interview stating that the Mr. Rao told her the impersonation idea was Mr. Rao's idea alone). Mr. Watson immediately addressed Mr. Rao's impersonation and, in point of fact, two weeks after the impersonation call, Goldman itself resumed doing advertising business with OZY - - a sign that Goldman, which had been OZY's longest term advertiser going back to 2016 and which counted a half-dozen senior partners as OZY's investors, did not view OZY as a fraudulent company.

Third, Mr. Watson had nothing to do with the fake contract that Mr. Rao delivered to Hanmi Bank and there is no evidence to the contrary. Exhibit M at p. 17 (Rao FBI interview explaining that Mr. Watson asked Ms. Thakur to draft a real contract, which Rao used it as the template to create a fake contract). If the government possessed any evidence showing Mr. Watson's involvement in the forged contract, it would have presented it at trial front and center.



Fourth, Mr. Watson never falsely claimed to have interest from investors or institutions who were not actually interested in investing in OZY. Mr. Watson had signed term sheets or other writings from prominent investors indicating their *bona fide* interest in or prior investments in OZY, including Oprah Winfrey, Alex Rodriguez, and LiveNation.

Fifth, Mr. Watson never claimed to have a $600 million takeover offer from Google. If he had such an offer, Antara - - which subjected its contemplated investment in OZY to a sophisticated due diligence process resulting in a 35+ page investment memo - - would have trumpeted such an offer in its investment memo, because Antara's prospective investment in OZY would have immediately been more valuable. Antara's investment memo did not mention any such offer. *See* Exhibit N (Antara investment memo). Nor was there any email, text message, or other communication from Mr. Watson touting a $600 million offer from Google.

Sixth, Mr. Watson did not direct Mr. Rao or Ms. Han to alter OZY's books, create fake contracts, engage in forgery, or misrepresent OZY's numbers. The government never produced an email or text message in which Mr. Watson directed others to engage in fraud.

In short, Mr. Watson did not engage in fraud, intend fraud, or intend any investor to lose money.