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8 Counsel for Defendant ARMSTRONG
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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF COLUMBIA
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13 UNITED STATES OF AMERICA,
14 Plaintiff,
15 v.
16 KENNETH ARMSTRONG III,
17 Defendant.
18

Case No.: 1:22-CR-00045 RCL
**DEFENDANT’S MOTION RE: TRAVEL
AND MEMORANDUM OF POINTS AND
AUTHORITIES; [PROPOSED] ORDER**

19 **INTRODUCTION**

20 Misdemeanor defendant Kenneth Armstrong III respectfully moves the Court for the temporary
21 return of his passport and permission to travel to a conference in Indonesia. He proposes to share his
22 travel plans (flight, hotel reservations) with U.S. Pretrial Services in advance and remain in contact
23 with his assigned Pretrial Services officer at all times. Mr. Armstrong has no prior criminal record,
24 has strictly complied with all pretrial conditions, and has cooperated with the government’s
25 investigation in this matter. He has never missed a court date or violated a court order in his life.
26 There is no reason to believe he is a serious flight risk, or that he would abandon his business,
27 friends, and family, in order to escape prosecution for misdemeanor charges that are unlikely to result
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1 in additional jail time. Defense counsel sought the government's position concerning this request, but
2 as of this filing has not yet received a response. The defendant respectfully requests a hearing on this
3 matter, per Local Rule 47(f).

4 **BACKGROUND**

5 Mr. Armstrong was interviewed by FBI agents on March 11, 2021. He truthfully answered their
6 questions about January 6, 2021, drew up a map of where he had been that day, voluntarily shared
7 photographs and videos taken on his phone, and even sent one of the agents a video upon request.
8 After the FBI left last March, Mr. Armstrong did not flee and did not even move. He remained at his
9 residence and continued to live his life as an aquaponic vegetable farmer in Half Moon Bay,
10 California.

11 He was charged with four misdemeanors by complaint on January 18, 2022. *United States v.*
12 *Armstrong*, 1:22-00045-RCL, Dkt. No. 1. Although Mr. Armstrong would have appeared if
13 summonsed, he was instead arrested on January 20, 2022, and released from jail the following day on
14 a \$10,000 bond by the magistrate court for the Northern District of California. *United States v.*
15 *Armstrong*, 3:22-mj-70069 MAG, Dkt. No. 4. The only travel restriction imposed forbid him from
16 travelling to the District of Columbia (D.C.) except for court proceedings. *Id.* He was not asked to
17 surrender his passport. *Id.* Mr. Armstrong made his initial appearance in D.C. on January 25, 2022,
18 where the D.C. magistrate court modified the bond to require Mr. Armstrong to surrender his
19 passport and receive court approval for any travel outside the Northern District of California. *United*
20 *States v. Armstrong*, 1:22-00045-RCL, Dkt. No. 8. Mr. Armstrong has remained in compliance with
21 all conditions. *See, e.g.*, Dkt. No. 17 (Compliance Report). Of course, he has attended every court
22 hearing to date.

23 Mr. Armstrong now requests permission to travel to Indonesia to participate in a conference
24 related to “web3” and “Non-Fungible Tokens” or “NFTs.” Mr. Armstrong is a founding member of a
25 group called Club 101 which promotes NFT projects and pro-social business development.¹ Mr.
26 Armstrong considers participating in the Club to be both a creative hobby and a vocational activity
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28 ¹ The Club's website is here: <https://www.club101.io> (last accessed May 9, 2022).

1 that is a potential source of earnings. The Club is participating in a conference in Indonesia, where
2 Mr. Armstrong hopes to meet with business partners and advisors who live internationally. The
3 conference is occurring throughout the month of May 2022. Mr. Armstrong respectfully asks
4 permission to retrieve his passport from U.S. Pretrial Services' custody and fly directly to Indonesia
5 on May 17, 2022, where he will stay at a hotel. On June 2, 2022, he proposes to fly directly back to
6 the Northern District of California, where he will return his passport to Pretrial Services. He will
7 provide his flight and hotel reservations to Pretrial Services and will continue to report to Pretrial
8 Services as directed throughout his entire trip.

9 **ARGUMENT**

10 The defense respectfully submits that Mr. Armstrong is not such a serious flight risk that he
11 should be denied permission to travel. Under the Bail Reform Act of 1984, a defendant such as Mr.
12 Armstrong may only be placed on restrictive travel conditions if a judicial officer determines own
13 recognizance release "will not reasonably assure the appearance of the person as required." 18 U.S.C.
14 § 3142(b). The current record amply demonstrates that Mr. Armstrong will reliably appear for all
15 future proceedings. Mr. Armstrong has no prior criminal record, and no other history that would
16 suggest he is a flight risk. He has never missed a court date in his life or violated any court order ever.

17 He is a lifelong resident of Northern California, and his family all resides in the United States.
18 He owns an aquaponic farming business in Northern California, Ouroboros Farms LLC, about which
19 he is passionate. He has several employees at the farm that depend on Mr. Armstrong for their
20 livelihood. The majority of Mr. Armstrong's friends and community reside in Northern California.
21 Although he had the opportunity to flee for nearly nine months following his interrogation by the
22 FBI, Mr. Armstrong stayed put. He even cooperated with the FBI's investigation when approached
23 by investigators. He has been compliant with all restrictions placed on him by this court for almost
24 six months now.

25 Mr. Armstrong has no prior ties to Indonesia and no predisposition to flee. He has never lived
26 abroad in Asia and he has few contacts overseas. Nothing in his history suggests he is inclined to
27 abandon his life, business, and the community in Northern California that he has cultivated for
28 decades, in order to escape prosecution for a slew of misdemeanors that may not result in any

1 additional jail time (assuming he is convicted). Indeed, fleeing would constitute a much more serious
2 felony than the offenses presently charged, and it would certainly make no sense for Mr. Armstrong
3 to incur more serious charges by failing to appear. Although it is true that Mr. Armstrong has some
4 savings in the form of cryptocurrency as a result of the sale of his residence (due to financial distress,
5 well before this case was instituted), his possession of some savings—without more—does not come
6 close to showing that he is a serious flight risk.² Rather, Mr. Armstrong’s lifetime of law-abiding
7 conduct, his decision to stay put and wait for charges after being interviewed by the FBI, and his
8 perfect compliance on pretrial release demonstrate beyond question Mr. Armstrong’s firm intention
9 to abide by his release conditions and appear for all future proceedings.

10 **CONCLUSION**

11 For the foregoing reasons, Mr. Armstrong respectfully requests that he be granted permission to
12 travel on the conditions set forth herein.

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15 Dated: May 9, 2022

Respectfully submitted,

16 JODI LINKER
17 Federal Public Defender
Northern District of California

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DAVID W. RIZK
Assistant Federal Public Defender

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28 ² If required, Mr. Armstrong is prepared to temporarily post some of his savings with the Court to guarantee his compliance during his proposed travel.

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[PROPOSED] ORDER

Pursuant to the defendant's motion, he is granted permission to retrieve temporarily his U.S. Passport, and travel from the Northern District of California to Indonesia from May 17, 2022 to June 2, 2022. He must disclose his travel plans and reservations in advance to U.S. Pretrial Services and shall continue to report by telephone or video as directed by Pretrial Services while traveling. He must surrender his Passport immediately when he returns to the Northern District of California.

Dated: _____

UNITED STATES MAGISTRATE JUDGE