

**PUBLIC**

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Intercontinental Exchange, Inc.,  
a corporation, and

Black Knight, Inc.,  
a corporation,

Respondents.

Docket No. 9413

**REDACTED PUBLIC VERSION**

**RESPONDENT INTERCONTINENTAL EXCHANGE, INC.'S  
OPPOSITION TO THIRD PARTY DANIEL SOGORKA'S MOTION  
TO QUASH OR LIMIT RESPONDENT ICE'S DEPOSITION SUBPOENA**

**PUBLIC****PRELIMINARY STATEMENT**

Respondent Intercontinental Exchange, Inc. respectfully requests that Daniel Sogorka's motion to quash or limit Intercontinental Exchange's deposition subpoena be denied and Sogorka instead be ordered to make himself available promptly.

It would be unprecedented to quash this subpoena. Sogorka has not cited a single case, and we are aware of none, where the so-called "apex doctrine" has been applied in *any* FTC adjudicative proceeding to quash the deposition of a corporate executive (as opposed to a high-ranking government official). Nor would the subpoena to Sogorka warrant applying this narrow doctrine. Sogorka, Sagent's Chief Executive Officer, was at the center of a sweeping, nearly year-long effort to thwart the Intercontinental Exchange/Black Knight transaction (the "Transaction"). He is a critical player with unique knowledge. Fairness requires that Intercontinental Exchange be allowed to question Sogorka.

Sagent is a mortgage servicing technology company; Warburg Pincus, a private equity firm, owns the largest equity stake. Warburg and Sagent [REDACTED]

[REDACTED] When Intercontinental Exchange announced that it would purchase Black Knight [REDACTED] Warburg and Sagent launched a far-reaching operation to kill the Transaction—coordinated with the help of lobbyists, consultants, and PR advisors [REDACTED]

[REDACTED] The [REDACTED] team attacked the Transaction within Congress, in the press, among industry organizations, with Intercontinental Exchange's and Black Knight's customers and competitors, and before several government agencies, including, most importantly, the FTC. Indeed, the FTC—which did not send Warburg or Sagent a CID or take testimony from any executive—still met with various Warburg and Sagent personnel numerous times.

Sogorka personally directed several aspects of this operation. He criticized the deal to

**PUBLIC**

industry players, introduced entities to the FTC, and met with the FTC multiple times. Further, when Intercontinental Exchange and Black Knight eventually pursued a divestiture, Sogorka sent a letter urging Sagent as the buyer, touting the ability of such a purchase to “preserve competition.” Sogorka also complained that Sagent had been “blacklisted” from the process—in an email relied upon by the FTC. A deposition is the only way to fully explore, among other relevant issues, the extent to which the FTC’s challenge benefits a competitor rather than competition. Accordingly, Intercontinental Exchange respectfully requests that Sogorka’s motion be denied and that Sogorka be deposed without delay.

**RELEVANT BACKGROUND**

[REDACTED]

Warburg, a large private equity firm, has held the biggest equity stake in Sagent since 2018.<sup>1</sup> Sagent does not offer a loan origination system; a product, pricing, and eligibility engine; or otherwise compete in the identified “market[s] of concern.”<sup>2</sup> Sogorka, a former business unit president at Black Knight, has served as Sagent’s CEO and President since 2020.<sup>3</sup>

[REDACTED]

[REDACTED] They viewed Intercontinental Exchange as [REDACTED] SAGWP\_FTC\_00006240 (April 21, 2022 email among Warburg personnel). [REDACTED] SAGWP\_FTC\_00006043 (April 7, 2022 Warburg email). Warburg acknowledged that Intercontinental Exchange [REDACTED]

<sup>1</sup> <https://newsroom.fiserv.com/news-releases/news-release-details/fiserv-sell-majority-interest-its-lending-solutions-business>.

<sup>2</sup> *In the Matter of Intercontinental Exchange, Inc. and Black Knight, Inc.*, FTC Docket No. D-9413.

<sup>3</sup> <https://sagent.com/2020/03/12/sagent-appoints-dan-sogorka-ceo-and-president/>.

## PUBLIC

SAGWP\_FTC\_00006240 (April 22, 2022 email among Warburg personnel).

When Intercontinental Exchange announced the Transaction, Warburg and Sagent were blunt, remarking [REDACTED] and [REDACTED] SAGWP\_FTC\_00001239 (May 4, 2022 email among Sagent board members); SAGWP\_FTC\_00003525 (May 4, 2022 email among Warburg personnel). Sogorka made charged comments, including acknowledging to the Sagent board that the Transaction was [REDACTED] for him. SAGWP\_FTC\_00006337 (May 4, 2022 Sogorka email). One week later, Sogorka [REDACTED]

[REDACTED]

SAGWP\_FTC\_00002651 (May 12, 2022 draft Sogorka responses to Institutional Risk Analyst interview).

[REDACTED]

Following the Transaction announcement, Warburg and Sagent transformed their [REDACTED] [REDACTED] into [REDACTED] designed to stop the Black Knight sale to Intercontinental Exchange. They assembled a team of executives and directors, backed by approximately eight consultants, lobbyists, and press advisors, to—in the words of a Sagent [REDACTED] [REDACTED] SAGWP\_FTC\_00005422 (September 19, 2022 email exchange).<sup>4</sup> During an almost year-long period, the [REDACTED] team contacted at least:

- staff members for seven Senators, four House members, and four Congressional committees;<sup>5</sup>

<sup>4</sup> See also SAGWP\_FTC\_00004620; SAGWP\_FTC\_00002628; SAGWP\_FTC\_00005061; SAGWP\_FTC\_00006665; SAGWP\_FTC\_00006337. Given the number of referenced documents we have not appended them to the brief, but can provide any upon the ALJ's request.

<sup>5</sup> SAGWP\_FTC\_00005584; SAGWP\_FTC\_00005611; SAGWP\_FTC\_00004446; SAGWP\_FTC\_00004747; SAGWP\_FTC\_00006772; SAGWP\_FTC\_00003851; SAGWP\_FTC\_00004333; SAGWP\_FTC\_00007169; SAGWP\_FTC\_00005485; SAGWP\_FTC\_00005040; SAGWP\_FTC\_00005045; SAGWP\_FTC\_00004866; SAGWP\_FTC\_00007108; SAGWP\_FTC\_00005734; SAGWP\_FTC\_00006522.

## PUBLIC

- four federal enforcers/regulators;<sup>6</sup>
- three state attorney generals' offices;<sup>7</sup>
- eight media outlets;<sup>8</sup>
- five industry organizations;<sup>9</sup> and
- fourteen companies or individuals involved in mortgage-related businesses<sup>10</sup> (whether as providers or customers).

The above counts may be under-inclusive, given that the document productions suggest that the

██████████ team often communicated outside of email.

Warburg and Sagent paid their non-lawyer ██████████ advisors collectively more than ██████████ See Sagent/Warburg response to Request for Production 9. As just one example of their expenditures, Sagent, with Warburg's approval, paid ██████████ for a consulting firm to prepare a white paper, the purpose of which was to "*enhance the likelihood that federal regulators will block*" the Transaction. *Id.*; SAGWP\_FTC\_00007160 (October 5, 2022 Statement of Work) (emphasis added); ██████████. Sagent asked that the report not disclose its identity or that it had funded the report. See, e.g., SAGWP\_FTC\_00004618 (November 1, 2022 email declining Sagent's request not to disclose white paper funding).

### **Sogorka's Role in** ██████████

Sagent does not compete in the markets that the FTC has identified as relevant to its

<sup>6</sup> SAGWP\_FTC\_00010224; SAGWP\_FTC\_00006671; SAGWP\_FTC\_00006610; SAGWP\_FTC\_00006523.

<sup>7</sup> SAGWP\_FTC\_00005160; SAGWP\_FTC\_00010154; SAGWP\_FTC\_00009491.

<sup>8</sup> SAGWP\_FTC\_00005330; SAGWP\_FTC\_00006598; SAGWP\_FTC\_00006581; SAGWP\_FTC\_00004613; SAGWP\_FTC\_00003745; SAGWP\_FTC\_00006912; SAGWP\_FTC\_00005364.

<sup>9</sup> SAGWP\_FTC\_00005495; SAGWP\_FTC\_00006787; SAGWP\_FTC\_00006936; SAGWP\_FTC\_00005520; SAGWP\_FTC\_00006474.

<sup>10</sup> SAGWP\_FTC\_00010604; SAGWP\_FTC\_00004511; SAGWP\_FTC\_00002685; FTC-PROD-00008838; SAGWP\_FTC\_00005764; FTC-PROD-00008854; SAGWP\_FTC\_00006337; SAGWP\_FTC\_00006324; SAGWP\_FTC\_00005805.

## PUBLIC

challenge. Notably, the FTC did not send Sagent a *single CID*, take an IH from it, or obtain a declaration from it. Still, it appears that Warburg and Sagent representatives met with FTC representatives over the course of the investigation at least *nine times*, with Sogorka apparently participating in at least five of those meetings.<sup>11</sup> Following a February 27, 2023 meeting with the FTC, Sogorka wrote: [REDACTED]

[REDACTED]<sup>12</sup> SAGWP\_FTC\_00006332 (February 28, 2023 email from Sogorka) (emphasis added) (ellipsis in original). On March 9, 2023, when it subsequently filed its complaint, the FTC [REDACTED]  
[REDACTED] SAGWP\_FTC\_00011717 (March 9, 2023 Sagent internal notes).

In addition, Sogorka spoke about Intercontinental Exchange/Black Knight and related issues one-on-one with Bruce Rose, the CEO of Carrington (a mortgage provider), which is on the FTC's witness list. See SAGWP\_FTC\_00002904 (August 15, 2022 email from Sogorka describing a weekend he spent with Rose and conveying Rose [REDACTED]  
[REDACTED] Sogorka later connected Rose to the FTC. See FTC-PROD-00009325 (February 13, 2023 email). And, on February 27, 2023 (the day of Sogorka's meeting with the FTC described above), Rose sent Sogorka an article on the FTC's expected challenge to the Transaction, saying that he was "hoping for a good bar fight in your favor."

<sup>11</sup> FTC-PROD-00008797; SAGWP\_FTC\_00001417; SAGWP\_FTC\_00005522; SAGWP\_FTC\_00007026; FTC-PROD-00008820; FTC-PROD-00008831; FTC-PROD-00008857; SAGWP\_FTC\_00002710; FTC-PROD-00008889; FTC-PROD-00009318; SAGWP\_FTC\_00003951; FTC-PROD-00009510; SAGWP\_FTC\_00002678; SAGWP\_FTC\_00006378; FTC-PROD-00008900; SAGWP\_FTC\_00006332; SAGWP\_FTC\_00010224.

<sup>12</sup> The Politico article predicted that the FTC would challenge the Transaction, notwithstanding the proposed divestiture, and credited as unnamed sources "three people with direct knowledge on the matter." <https://www.politico.com/news/2023/02/27/feds-block-mortgage-software-deal-00084541>.

**PUBLIC**

SAGWP\_FTC\_00000635 (February 27, 2023 email). Likewise, Sogorka wrote to the founder and head of Blend—which is also on the FTC’s witness list—to schedule a call to discuss “BK/ICE and the landscape.” SAGWP\_FTC\_00006324 (March 8, 2023 email from Sogorka). The substance and full scope of these communications are unclear from the documentary evidence.

***Sagent’s Bid for the Proposed Divestiture Assets***

During the auction for the divestiture assets, Sogorka told a research analyst that Sagent had been “blacklisted” from the process. SAGWP\_FTC\_00000526 (February 10, 2023 email from Sogorka). The FTC’s expert relies on and quotes from Sogorka’s “blacklisted” email as support for his narrative that the auction process was flawed. *See* Expert Report of Dr. Sacher, at 243, 246. Days later, Sogorka sent an indication of interest on behalf of Warburg and Sagent, writing that a Sagent acquisition of the divestiture assets “will preserve competition” as it would “create a platform well positioned to enhance innovation . . . in the mortgage technology market.” SAGWP\_FTC\_00000666 (February 19, 2023 email from Sogorka); SAGWP\_FTC\_00000655 (February 19, 2023 Indication of Interest). When the proposed divestiture to Constellation was announced, Sogorka disparaged the proposed Constellation deal to Carrington, an FTC witness. SAGWP\_FTC\_00000576 (March 7, 2023 email from Sogorka).

***Upcoming Warburg/Sagent Deposition Testimony***

On May 2, 2023, Intercontinental Exchange served a deposition subpoena on Sogorka and other Warburg and Sagent executives as well as corporate representative subpoenas on each entity. Warburg and Sagent have each agreed to produce only one witness for deposition testimony, in both their individual and corporate capacities. The FTC has demanded half of that time for its own questioning. On June 2, Warburg and Sagent objected to the corporate representative subpoenas, stating that their witnesses “will not be prepared to testify in detail about each and every

**PUBLIC**

communication” and would only testify “generally” about communications. Exhibit 1 (June 2, 2023 Responses to corporate representative subpoenas at 2, 10 11).

**ARGUMENT****I. The So-Called “Apex Doctrine” Does Not Apply Here**

It would be unprecedented to apply the “apex doctrine” here. We are not aware of a single case, and Sogorka does not cite one, applying the “apex” doctrine to quash the deposition of a corporate executive (as opposed to a high-ranking government official) in any administrative proceeding before the FTC or, indeed, in any case before the U.S. Court of Appeals for the District of Columbia Circuit or the U.S. District Court for the District of Columbia. As one court in the District of Columbia recently explained in denying an attempt to quash a corporate executive’s testimony based on the apex doctrine, “[n]o [federal] court in [the District of Columbia] has extended the apex doctrine to corporate executives . . . .” *Zimmerman v. Al Jazeera Am., LLC et al.*, 329 F.R.D 1, at \*6 (D.D.C. 2018). *See also FTC v. Bisaro*, Misc. Action No. 10-289 (CKK), Dkt. 20, at 7 (where *the FTC* argued successfully that the “apex doctrine” cannot block corporate executive testimony in administrative investigations).

**II. In Any Event, Sogorka Has Unique Personal Knowledge**

In any event, Sogorka cannot satisfy any rendition of this doctrine because he has relevant, non-duplicative information.

***Sogorka has substantial personal knowledge.*** “When a witness has personal knowledge of facts relevant to the lawsuit, even a corporate president or CEO is subject to deposition.” *Zimmerman*, 329 F.R.D at \*7 (quoting *Schneider v. Chipotle Mexican Grill, Inc.*, No. 16-cv-2200 (HSG) (KAW), 2017 WL 4127992, at \*2 (N.D. Cal. Sept. 19, 2017)). Here, Sogorka has substantial personal knowledge on several topics relevant to the dispute. He met multiple times



**PUBLIC**

with the FTC; introduced industry contacts to the FTC, including Carrington (an FTC witness); appears to have discussed the Transaction with Carrington's CEO and Blend's CEO; and drove both the effort to bid for Empower and then to disparage the proposed Constellation divestiture with Carrington (and possibly others). His testimony thus is critical to Intercontinental Exchange's argument that the FTC's challenge benefits a competitor rather than competition.

***The other witnesses that Sagent and Warburg have agreed to produce are not equivalent.***

The other Warburg and Sagent witnesses were not involved in Sogorka's one-on-one discussions with various industry participants, including Carrington's CEO and Blend's Founder and CEO. And Warburg and Sagent have each refused to prepare their corporate representatives to testify on Sogorka's specific communications, personal observations, or views. Those witnesses also cannot speak to, among other things, Sogorka's reactions to FTC meetings and why, having driven a campaign to stop the Transaction, Sogorka was then complaining that Sagent was being "blacklisted" from the auction process intended to facilitate closure thereof. Further, the FTC's expert report relies on *Sogorka's* email—not any other Sagent or Warburg witness.

***Intercontinental Exchange cannot obtain the information it seeks from the documents produced to date.*** Warburg and Sagent have produced scant documents concerning their many meetings with the FTC, such as internal correspondence and prep materials. They also have not produced any notes taken by Sogorka or any records of his discussions with any industry participants. And they produced only a conspicuously small number of internal communications regarding [REDACTED] as well as immediately following the announcement of the Transaction. Moreover, the emails themselves demonstrate that Sogorka frequently communicated by phone or in person. Intercontinental Exchange is entitled to depose Sogorka about these communications, to the extent

**PUBLIC**

relevant to their admissibility at trial, and to prepare to cross-examine the FTC's witnesses, including the FTC's expert.

***Sogorka cannot be excused based on his schedule.*** Sogorka's brief vaguely refers to other commitments and notes that he is "already testifying in a multi-week trial in June" without indicating how long he is expected to testify. Mot. to Quash at 6. Sogorka cannot avoid his *See, e.g., In re Transpacific Passenger Air Transp. Antitrust Litig.*, 2014 WL 939287, at \*3 (N.D. Cal. Mar. 6, 2014) ("a busy schedule is simply not a basis for foreclosing otherwise proper discovery").

Nor should this issue be deferred until after the corporate representative depositions. Mot. to Quash at 6. That is not practicable here given the expedited schedule. *See Chevron Corp. v. Donziger*, 2013 WL 1896932, at \*1 (S.D.N.Y. May 7, 2013) (refusing to defer high-level executive testimony until after the corporate representative's given the discovery timetable). The deposition should proceed forthwith.

**PUBLIC**

**CONCLUSION**

For the foregoing reasons, Intercontinental Exchange respectfully requests that the ALJ deny Sogorka's motion to quash or otherwise limit Intercontinental Exchange's deposition subpoena.

Dated: June 8, 2023

Respectfully submitted,

**KOBRE & KIM LLP**

*/s/ Benjamin Sirota*

---

Danielle L. Rose  
Benjamin Sirota  
Danielle.Rose@kobrekim.com  
Benjamin.Sirota@kobrekim.com

800 Third Avenue  
New York, New York 10022  
Tel.: +1 212 488 1200  
Fax: +1 212 488 1220

*Counsel for Respondent  
Intercontinental Exchange, Inc.*

**PUBLIC****CERTIFICATE OF COMPLIANCE**

Pursuant to Rule 3.22(c) of the FTC Rules of Practice, the undersigned hereby certifies that the above and foregoing Motion contains 2,485 words, including headings, footnotes, and quotations, but not including the cover, table of contents, table of citations or authorities, glossaries, statements with respect to oral argument, any addendums containing statutes, rules or regulations, any certificates of counsel, proposed form of order, and required attachments.

Dated: June 8, 2023

**KOBRE & KIM LLP**

*/s/ Benjamin Sirota*

---

Danielle L. Rose  
Benjamin Sirota  
Danielle.Rose@kobrekim.com  
Benjamin.Sirota@kobrekim.com

800 Third Avenue  
New York, New York 10022  
Tel.: +1 212 488 1200  
Fax: +1 212 488 1220

*Counsel for Respondent  
Intercontinental Exchange, Inc.*

**PUBLIC**

**EXHIBIT 1**

(June 2, 2023 Sagent M&C, LLC and Warburg Pincus, LLC Letter Response to Corporate Representative Deposition Subpoenas)

**PUBLIC****KIRKLAND & ELLIS LLP**

AND AFFILIATED PARTNERSHIPS

Tammy Tsoumas  
To Call Writer Directly:  
+1 310 552 4334  
tammy.tsoumas@kirkland.com

2049 Century Park East  
Los Angeles, CA 90067  
United States

+1 310 552 4200

www.kirkland.com

Facsimile:  
+1 310 552 5900

June 2, 2023

**Via E-mail****CONFIDENTIAL**

Danielle Rose  
Alexandria Swette  
Kobre & Kim  
800 Third Avenue  
New York, New York 10022

***Re: In the Matter of Intercontinental Exchange, Inc. and Black Knight, Inc., FTC Docket No. 9413***

Dear Counsel:

As part of our continued effort to meet and confer and respond to the six deposition subpoenas Intercontinental Exchange, Inc. (“ICE”) served collectively on Sagent M&C, LLC (“Sagent”) and Warburg Pincus LLP (“Warburg”), we write to offer our proposal on the scope of the two corporate representative deposition subpoenas served on May 2, 2023. This letter does not in any way waive, forfeit, or modify our rights to object to or otherwise move to quash the subpoenas in their entirety.

Sagent objects to the corporate representative deposition subpoena to the extent that it calls for information that is protected by the attorney-client, work product, or any other applicable privilege, or to the extent that it calls for information subject to a confidentiality agreement or is otherwise protected by law. Sagent objects to the Topics as unduly burdensome and overbroad, including because the subpoena requests that Sagent prepare a witness to testify about 17 Topics, all of which contain subparts and are thus compound, going back to January 1, 2020. Sagent further objects to the Topics to the extent that they call for expert opinion or testimony. Any testimony provided in response to the corporate representative deposition subpoena shall be on behalf of Sagent M&C, LLC only, and not any of its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, joint ventures, directors, officers, employees, agents, any other related entity, or any representative of the foregoing.

Subject to the foregoing objections, and subject to Sagent’s specific responses and objections to each Topic below, Sagent will produce Matthew Tully in response to the corporate representative deposition subpoena, who will sit for one day of deposition in both his individual

**KIRKLAND & ELLIS LLP**

June 2, 2023  
 Page 2

**CONFIDENTIAL**

and corporate representative capacity. ICE must make clear during the deposition which questions are addressed to Mr. Tully in his individual capacity and which questions are addressed to Mr. Tully in his corporate representative capacity.

Sagent further objects and responds to each Topic as follows:

Number	Topic	Response
1	Your Communications with the FTC, the CFPB, any other government agency, or any other persons or entities working on behalf of or engaged by the FTC, CFPB or other government agency, regarding the Proposed Transaction, the Investigation, the Administrative Proceeding, or this Litigation.	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “other persons or entities” and “working on behalf of or engaged by.” Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Sagent will produce a witness to testify generally about communications with the FTC, CFPB, and other government agencies about the proposed transaction. The witness will not be prepared to testify in detail about each and every communication, but Sagent has already searched for and produced responsive, non-privileged documents on this Topic so ICE has access to those communications.</p>
2	Your Communications, assessment of, and views regarding the Proposed Transaction, including any potential effects on the Company, including any potential sale of the Company; on competition in any market; or on the Company’s customers, and any other potential or actual risks or benefits.	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “assessment”, “potential effects,” “competition,” “market,” “customers” and “any other potential or actual risks or benefits.” Sagent further objects that this Topic is overbroad and unduly burdensome. Sagent further objects that this Topic calls for expert opinion and testimony.</p> <p>Subject to the foregoing objections, Sagent will produce a witness to testify generally about its views regarding the Proposed Transaction.</p>
3	Your Communications with any Person other than the	Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “other industry

## PUBLIC

## KIRKLAND &amp; ELLIS LLP

June 2, 2023

Page 3

CONFIDENTIAL

	<p>FTC, the CFPB, or any other government agency in connection with the Proposed Transaction, the Investigation, the Administrative Proceeding, or this Litigation, including other industry participants or companies involved in mortgage lending, servicing, or related technologies, consultants, advisors, newspapers, news publications, magazines, radio, podcasts, trade publications, blogs, or other media of any kind.</p>	<p>participants or companies involved in mortgage lending, servicing, or related technologies, consultants, advisors, newspapers, news publications, magazines, radio, podcasts, trade publications, blogs, or other media of any kind.” Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Sagent will produce a witness to testify generally about its communications with other entities besides the FTC, CFPB, or any other government agency regarding the Proposed Transaction, including generally how Sagent determined with whom to speak about the Proposed Transaction. The witness will not be prepared to testify in detail about each and every communication, but Sagent has already searched for and produced responsive, non-privileged documents on this Topic so ICE has access to those communications.</p>
4	<p>Your Communications with any Investors in Sagent concerning the Proposed Transaction, the Investigation, the Administrative Proceeding, or this Litigation, including the potential impact of the Proposed Transaction on: (i) any Plans to sell Sagent; or (ii) Sagent’s business, including its projected sales, revenue, profits, market share, or other prospects.</p>	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “projected sales, revenue, profits, market share, or other prospects.” Sagent further objects that this Topic is overbroad and unduly burdensome. Sagent further objects that this Topic calls for expert opinion and testimony.</p> <p>Subject to the foregoing objections, Sagent will produce a witness to testify generally about non-privileged communications with Warburg about the potential impact of the Proposed Transaction. The witness will not be prepared to testify in detail about each and every communication, but Sagent has already searched for and produced responsive, non-privileged documents on this Topic so ICE has access to those communications.</p>
5	<p>Your internal analysis, research, assessment,</p>	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “internal analysis,”</p>



**PUBLIC**

**KIRKLAND & ELLIS LLP**

June 2, 2023  
Page 4

**CONFIDENTIAL**

	<p>presentations, Plans and communications regarding providing information to or identifying potential interviewees or witnesses to the FTC, the CFPB, or Complaint Counsel, or otherwise criticizing or opposing the Proposed Transaction.</p>	<p>“research,” “assessment,” and “otherwise criticizing.” Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Sagent will produce a witness to testify generally about communications with the FTC, CFPB, and other government agencies about the proposed transaction. The witness will not be prepared to testify in detail about each and every communication, but Sagent has already searched for and produced responsive, non-privileged documents on this Topic so ICE has access to those communications.</p>
<p>6</p>	<p>Your efforts, including those of any Investors in Sagent, to identify third parties or “industry referrals” to provide information to the FTC, the CFPB, or any other government agency in connection with the Proposed Transaction, Investigation, the Administrative Proceeding, or the Litigation, regardless of whether those third parties or “industry referrals” in fact provided information to the FTC, the CFPB, or any other government agency, including Your Communications with the following:</p>	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “industry referrals.” Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Sagent will produce a witness to testify generally about its communications with other entities besides the FTC, CFPB, or any other government agency, including its communications with the each of the entities/people listed in (a) through (n), regarding the Proposed Transaction, including generally how Sagent determined with whom to speak about the Proposed Transaction. The witness will not be prepared to testify in detail about each and every communication, but Sagent has already searched for and produced responsive, non-privileged documents on this Topic so ICE has access to those documents.</p>

**PUBLIC**

**KIRKLAND & ELLIS LLP**

June 2, 2023  
Page 5

**CONFIDENTIAL**

	<p>a) Community Home Lenders Association (CHLA);</p> <p>b) Jay Plum or any other employees of Fifth Third Bank or its Affiliates;</p> <p>c) Bruce Rose or any other employees of Carrington Mortgage Services, LLC or its Affiliates;</p> <p>d) Karen Petrou or any other employees of Federal Financial Analytics, Inc. or its Affiliates;</p> <p>e) Chris Whalen or any other employees of Whalen Global Advisors or its Affiliates;</p> <p>f) Andrew Wang or any other employees of Valon Mortgage, Inc. or its Affiliates;</p> <p>g) Eric Rachmel or any other employees of Brace Software Inc. or its Affiliates;</p> <p>h) David Kawata or any other employees of Docitt, Inc. or its Affiliates;</p> <p>i) Scott Dunn or any other employees of Blue</p>	
--	---	--

**PUBLIC**

**KIRKLAND & ELLIS LLP**

June 2, 2023  
Page 6

**CONFIDENTIAL**

	<p>Sage Solutions, LLC or its Affiliates;</p> <p>j) Jeff Foster or any other employees of HomeVision or its Affiliates;</p> <p>k) Scott Brinkley or any other employees of a360inc or its Affiliates;</p> <p>l) Cliff Rossi, PhD;</p> <p>m) Prabhakar Bhogaraju or any other employees of Finlocker or its Affiliates; and</p> <p>n) Adam Carmel or any other employees of Polly or its Affiliates.</p>	
<p>7</p>	<p>Your efforts to create, draft, contribute to, collaborate with, support or commission any studies, reports, presentations, or analyses related to the potential effects of the Proposed Transaction, including Your involvement with Federal Financial Analytics, Inc., and its publication on February 6, 2023, and the financial or other resources associated with same.</p>	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “create,” “draft,” “contribute to,” “collaborate with,” “support,” “commission,” “studies,” “reports,” “analyses” and “potential effects.” Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Sagent will produce a witness to testify generally about interactions with Federal Financial Analytics, Inc. in connection with the Proposed Transaction.</p>
<p>8</p>	<p>Your evaluation, strategy, calculations, and strategic</p>	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “evaluation,” “strategy,”</p>

PUBLIC

KIRKLAND & ELLIS LLP

June 2, 2023  
Page 7

CONFIDENTIAL

	<p>Plans related to any actual or potential Bid considered by You, Warburg, or any Person with which You or Warburg was working in connection with the Proposed Transaction or the Proposed Divestiture, including any actual or potential Bid considered by You to acquire Empower or any part of BK, and any response to any actual Bid.</p>	<p>“calculations,” “strategic Plans” and “bid.” Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Sagent will produce a witness to testify generally about Sagent’s efforts to try to be the divestiture buyer.</p>
<p>9</p>	<p>Your evaluation, strategy, calculations, and strategic Plans related to any actual or potential Bid or proposal considered by You or Warburg to [REDACTED]</p>	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “evaluation,” “strategy,” “calculations,” “strategic Plans” and “bid.” Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Sagent will produce a witness to testify generally about Sagent’s knowledge of any discussions regarding [REDACTED]</p>
<p>10</p>	<p>Your ownership of or financial interest in, as well as consideration of a transaction with, any company involved in the sale of LOS, PPE, or any Ancillary Services.</p>	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “ownership,” “financial interest,” and “involved.” Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Sagent does not have a financial interest in any company involved in LOS, PPE, or any Ancillary Services. Sagent has already committed to providing a written response on this point in response to RFP #7 and therefore, Sagent will not be producing a witness on this Topic. Nevertheless, Sagent is amenable to indicating on the record that the forthcoming written statement covers this Topic</p>

## PUBLIC

## KIRKLAND &amp; ELLIS LLP

June 2, 2023

CONFIDENTIAL

Page 8

11	Your plans or proposals relating to the acquisition or development of LOS, PPE, or any Ancillary Services.	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “plans,” “proposals,” “acquisition,” and “development.” Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Warburg has already committed to providing a spreadsheet regarding RFP #8 subject to any confidentiality restrictions, including any applicable non-disclosure agreements. Accordingly, Sagent will not be producing a witness on this Topic.</p>
12	All legal counsel, financial advisors, consultants, or other advisors that You or Warburg worked with in connection with the Proposed Transaction, the Investigation, the Administrative Proceeding, or the Litigation, including the identities of each such Person, the date on which each such Person was retained, and the amounts paid for any services rendered.	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “legal counsel,” “financial advisors,” “consultants,” “other advisors,” and “services rendered.” Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Sagent has already committed to providing a spreadsheet regarding RFP #9, which will exclude legal counsel per the parties’ agreement, and therefore, Sagent will not be producing a witness on this Topic. Nevertheless, Sagent is amenable to indicating on the record that the forthcoming chart covers this Topic.</p>
13	Any Investors in Sagent, including private equity firms.	<p>Sagent objects to the Topic as vague and ambiguous. Sagent further objects that this Topic is overbroad and unduly burdensome.</p> <p>Warburg has already committed to providing a written statement regarding its ownership in Sagent in response to RFP #7. Accordingly, Sagent will not be producing a witness on this Topic</p>
14	Your market capitalization, EBITDA, and annual revenue as an entity, and by	Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “market capitalization” and “annual revenue.” Sagent further objects that

## PUBLIC

## KIRKLAND &amp; ELLIS LLP

June 2, 2023

CONFIDENTIAL

Page 9

	line of business, subsidiary, and Affiliate.	<p>this Topic is overbroad, unduly burdensome, and seeks highly-sensitive business information of Sagent that is not relevant to the Proposed Transaction.</p> <p>Sagent will not produce a witness on this Topic as framed.</p>
15	Your ownership structure, including any equity interests in the Company.	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “ownership structure” and “equity interests.” Sagent further objects that this Topic is overbroad, unduly burdensome, and seeks highly-sensitive business information of Sagent that is not relevant to the Proposed Transaction.</p> <p>Sagent will not produce a witness on this Topic as framed.</p>
16	The composition of Your board of directors, including number of board seats, identities of members, the members’ other employment and professional affiliations, and any titles and/or board committees of those members.	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “professional affiliations.” Sagent further objects that this Topic is overbroad, unduly burdensome, and seeks information that is not relevant to the Proposed Transaction.</p> <p>Sagent will not produce a witness on this Topic as framed.</p>
17	Your management, operational and strategic relationship with Warburg, including with respect to operations, decision making, and overlapping board members, C-Suite, or other senior executives and personnel.	<p>Sagent objects to the Topic as vague and ambiguous, particularly as to the terms “operational and strategic relationship,” “decision making,” and “other senior executives and personnel.” Sagent further objects that this Topic is overbroad, unduly burdensome, and seeks highly-sensitive information that is not relevant to the Proposed Transaction.</p>



**PUBLIC**

**KIRKLAND & ELLIS LLP**

June 2, 2023  
Page 10

**CONFIDENTIAL**

		Sagent will not produce a witness on this Topic as framed.
--	--	--

Warburg objects to the corporate representative deposition subpoena to the extent that it calls for information that is protected by the attorney-client, work product, or any other applicable privilege, or to the extent that it calls for information subject to a confidentiality agreement or is otherwise protected by law. Warburg objects to the Topics as unduly burdensome and overbroad, including because the subpoena requests that Warburg prepare a witness to testify about 19 Topics, all of which contain subparts and are thus compound, going back to January 1, 2020. Warburg further objects to the Topics to the extent that they call for expert opinion or testimony. Any testimony provided in response to the corporate representative deposition subpoena shall be on behalf of Warburg Pincus LLC only, and not any of its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, joint ventures, directors, officers, employees, agents, any other related entity, or any representative of the foregoing.

Subject to the foregoing objections, and subject to Warburg’s specific responses and objections to each Topic below, Warburg will produce Chandler Reedy in response to the corporate representative deposition subpoena, who will sit for one day of deposition in both his individual and corporate representative capacity. ICE must make clear during the deposition which questions are addressed to Mr. Reedy in his individual capacity and which questions are addressed to Mr. Reedy in his corporate representative capacity.

Warburg further objects and responds to each Topic as follows:

Number	Topic	Response
1	Your Communications with the FTC, the CFPB, any other government agency, or any other persons or entities working on behalf of or engaged by the FTC, CFPB or other government agency, regarding the Proposed Transaction, the Investigation, the	Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “other persons or entities” and “working on behalf of or engaged by.” Warburg further objects that this Topic is overbroad and unduly burdensome.  Subject to the foregoing objections, Warburg will produce a witness to testify generally about communications with the FTC, CFPB, and other government agencies about the proposed transaction. The witness will not be prepared to

## PUBLIC

## KIRKLAND &amp; ELLIS LLP

June 2, 2023

CONFIDENTIAL

Page 11

	Administrative Proceeding, or this Litigation.	testify in detail about each and every communication, but Warburg has already searched for and produced responsive, non-privileged documents on this Topic so ICE has access to these communications.
2	Your Communications, assessment of, and views regarding the Proposed Transaction, including any potential effects on the You or Sagent, including any potential sale of the Sagent; on competition in any market; or on the Sagent's customers, and any other potential or actual risks or benefits.	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms "assessment", "potential effects," "competition," "market," "customers" and "any other potential or actual risks or benefits." Warburg further objects that this Topic is overbroad and unduly burdensome. Warburg further objects that this Topic calls for expert opinion and testimony.</p> <p>Subject to the foregoing objections, Warburg will produce a witness to testify generally about its views regarding the Proposed Transaction.</p>
3	Your Communications with any Person other than the FTC, the CFPB, or any other government agency in connection with the Proposed Transaction, the Investigation, the Administrative Proceeding, or this Litigation, including other industry participants or companies involved in mortgage lending, servicing, or related technologies, consultants, advisors, newspapers, news publications, magazines, radio, podcasts, trade publications, blogs, or other media of any kind.	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms "other industry participants or companies involved in mortgage lending, servicing, or related technologies, consultants, advisors, newspapers, news publications, magazines, radio, podcasts, trade publications, blogs, or other media of any kind." Warburg further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Warburg will produce a witness to testify generally about its communications with other entities besides the FTC, CFPB, or any other government agency regarding the Proposed Transaction, including generally how Warburg determined with whom to speak about the Proposed Transaction. The witness will not be prepared to testify in detail about each and every communication, but Warburg has already searched for and produced responsive, non-privileged</p>



## PUBLIC

## KIRKLAND &amp; ELLIS LLP

June 2, 2023  
Page 12

CONFIDENTIAL

		documents on this Topic so ICE has access to those communications.
4	Your Communications with Sagent concerning the Proposed Transaction, the Investigation, the Administrative Proceeding, or this Litigation.	<p>Warburg objects to the Topic as vague and ambiguous. Warburg further objects that this topic is overbroad and unduly burdensome. Warburg further objects that this Topic calls for expert opinion and testimony.</p> <p>Subject to the foregoing objections, Warburg will produce a witness to testify generally about the types and general nature of non-privileged communications with Sagent about the Proposed Transaction. The witness will not be prepared to testify in detail about each and every communication, but Warburg has already searched for and produced responsive, non-privileged documents on this Topic so ICE has access to those communications.</p>
5	Your Communications with any of Your investors or any Investors in Sagent concerning the Proposed Transaction, the Investigation, the Administrative Proceeding, or this Litigation, including the potential impact of the Proposed Transaction on: (i) any Plans to sell or otherwise exit from Sagent; or (ii) Sagent's business, including its projected sales, revenue, profits, market share, or other prospects	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms "projected sales," "revenue," "profits," "market share, and "other prospects." Warburg further objects that this Topic is overbroad and unduly burdensome. Warburg further objects that this Topic calls for expert opinion and testimony.</p> <p>Subject to the foregoing objections, Warburg will produce a witness to testify generally about the general nature of any communications with Warburg investors regarding the Proposed Transaction. The witness will not be prepared to testify in detail about each and every communication.</p>
6	Your internal analysis, research, assessment, presentations, Plans and	Warburg objects to the Topic as vague and ambiguous, particularly as to the terms "internal analysis," "research," "assessment," and "otherwise

**PUBLIC**

**KIRKLAND & ELLIS LLP**

June 2, 2023  
Page 13

**CONFIDENTIAL**

	<p>communications regarding providing information to or identifying potential interviewees or witnesses to the FTC, the CFPB, or Complaint Counsel, or otherwise criticizing or opposing the Proposed Transaction.</p>	<p>criticizing.” Warburg further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Warburg will produce a witness to testify generally about communications with the FTC, CFPB, and other government agencies about the proposed transaction. The witness will not be prepared to testify in detail about each and every communication, but Warburg has already searched for and produced responsive, non-privileged documents on this Topic so ICE has access to those documents.</p>
<p>7</p>	<p>Your efforts, including those of any Investors in Warburg, to identify third parties or “industry referrals” to provide information to the FTC, the CFPB, or any other government agency in connection with the Proposed Transaction, Investigation, the Administrative Proceeding, or the Litigation, regardless of whether those third parties or “industry referrals” in fact provided information to the FTC, the CFPB, or any other government agency, including Your Communications with the following:</p>	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “industry referrals.” Warburg further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Warburg will produce a witness to testify generally about its communications with other entities besides the FTC, CFPB, or any other government agency, including its communications with the each of the entities/people listed in (a) through (n), regarding the Proposed Transaction, including generally how Warburg determined with whom to speak about the Proposed Transaction. The witness will not be prepared to testify in detail about each and every communication, but Warburg has already searched for and produced responsive, non-privileged documents on this Topic so ICE has access to those documents.</p>

**PUBLIC**

**KIRKLAND & ELLIS LLP**

June 2, 2023  
Page 14

**CONFIDENTIAL**

	<p>a) Community Home Lenders Association (CHLA);</p> <p>b) Jay Plum or any other employees of Fifth Third Bank or its Affiliates;</p> <p>c) Bruce Rose or any other employees of Carrington Mortgage Services, LLC or its Affiliates;</p> <p>d) Karen Petrou or any other employees of Federal Financial Analytics, Inc. or its Affiliates;</p> <p>e) Chris Whalen or any other employees of Whalen Global Advisors or its Affiliates;</p> <p>f) Andrew Wang or any other employees of Valon Mortgage, Inc. or its Affiliates;</p> <p>g) Eric Rachmel or any other employees of Brace Software Inc. or its Affiliates;</p> <p>h) David Kawata or any other employees of Docitt, Inc. or its Affiliates;</p> <p>i) Scott Dunn or any other employees of Blue</p>	
--	---	--

**PUBLIC**

**KIRKLAND & ELLIS LLP**

June 2, 2023  
Page 15

**CONFIDENTIAL**

	<p>Sage Solutions, LLC or its Affiliates;</p> <p>j) Jeff Foster or any other employees of HomeVision or its Affiliates;</p> <p>k) Scott Brinkley or any other employees of a360inc or its Affiliates;</p> <p>l) Cliff Rossi, PhD;</p> <p>m) Prabhakar Bhogaraju or any other employees of Finlocker or its Affiliates; and</p> <p>n) Adam Carmel or any other employees of Polly or its Affiliates.</p>	
<p>8</p>	<p>Your efforts to create, draft, contribute to, collaborate with, support or commission any studies, reports, presentations, or analyses related to the potential effects of the Proposed Transaction, including Your involvement with Federal Financial Analytics, Inc., and its publication on February 6, 2023, and the financial or other resources associated with same.</p>	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “create,” “draft,” “contribute to,” “collaborate with,” “support,” “commission,” “studies,” “reports,” “analyses” and “potential effects.” Warburg further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Warburg will produce a witness to testify generally about interactions with Federal Financial Analytics, Inc. in connection with the Proposed Transaction.</p>
<p>9</p>	<p>Your evaluation, strategy, calculations, and strategic</p>	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “evaluation,”</p>

PUBLIC

KIRKLAND & ELLIS LLP

June 2, 2023  
Page 16

CONFIDENTIAL

	Plans related to any actual or potential Bid considered by You, Sagent, or any Person with which You or Warburg was working in connection with the Proposed Transaction or the Proposed Divestiture, including any actual or potential Bid considered by You to acquire Empower or any part of BK, and any response to any actual Bid.	<p>“strategy,” “calculations,” “strategic Plans” and “bid.” Warburg further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Warburg will produce a witness to testify generally about Warburg’s interest in having Sagent be the divestiture buyer.</p>
10	Your evaluation, strategy, calculations, and strategic Plans related to any actual or potential Bid or proposal considered by You or Sagent to [REDACTED]	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “evaluation,” “strategy,” “calculations,” “strategic Plans” and “bid.” Warburg further objects that this Topic is overbroad and unduly burdensome.</p> <p>Subject to the foregoing objections, Warburg will produce a witness to testify generally about discussions regarding [REDACTED]</p>
11	Your ownership of or financial interest in, as well as consideration of a transaction with, any company involved in the sale of LOS, PPE, or any Ancillary Services.	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “ownership,” “financial interest,” and “involved.” Warburg further objects that this Topic is overbroad and unduly burdensome.</p> <p>Warburg has already committed to providing a written response indicating its ownership interest in Sagent in response to RFP #7 and therefore, Warburg will not be producing a witness on this Topic. Nevertheless, Warburg is amenable to indicating on the record that the forthcoming written statement covers this Topic</p>

## PUBLIC

## KIRKLAND &amp; ELLIS LLP

June 2, 2023

CONFIDENTIAL

Page 17

12	Your plans or proposals relating to the acquisition or development of LOS, PPE, or any Ancillary Services by You or Sagent.	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “plans,” “proposals,” “acquisition,” and “development.” Warburg further objects that this Topic is overbroad and unduly burdensome.</p> <p>Warburg has already committed to providing a spreadsheet regarding RFP #8 subject to any confidentiality restrictions, including any applicable non-disclosure agreements. Accordingly, Warburg will not be producing a witness on this Topic. Nevertheless, Warburg is amenable to indicating on the record that the forthcoming chart covers this Topic.</p>
13	All legal counsel, financial advisors, consultants, or other advisors that You or Warburg worked with in connection with the Proposed Transaction, the Investigation, the Administrative Proceeding, or the Litigation, including the identities of each such Person, the date on which each such Person was retained, and the amounts paid for any services rendered.	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “legal counsel,” “financial advisors,” “consultants,” “other advisors,” and “services rendered.” Warburg further objects that this Topic is overbroad and unduly burdensome.</p> <p>Sagent has already committed to providing a spreadsheet regarding RFP #9, which will exclude legal counsel per the parties’ agreement, and therefore, Warburg will not be producing a witness on this Topic.</p>
14	Your typical investment strategy, including Your typical timeline between acquisition of stakes in portfolio companies and sale of such stakes and Your methodology for increasing the value of and ultimately	Warburg objects to the Topic as vague and ambiguous, particularly as the terms “typical,” “investment strategy,” “timeline,” “stakes,” “methodology,” and “value.” Warburg further objects that this Topic is overbroad, unduly burdensome, and seeks highly-sensitive and confidential business information of Warburg that is not relevant to the Proposed Transaction.



## PUBLIC

## KIRKLAND &amp; ELLIS LLP

June 2, 2023

CONFIDENTIAL

Page 18

	selling takes in portfolio companies.	Warburg will not produce a witness on this Topic as framed.
15	Your evaluation, strategy, calculations and strategic Plans related to Your investment in Fiserv, from the date of the first such evaluation and at least from January 2018 to present.	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “evaluation,” “strategy,” “calculations” and “strategic Plans.” Warburg further objects that this Topic is overbroad, unduly burdensome, and seeks highly-sensitive business information of Warburg that is not relevant to the Proposed Transaction.</p> <p>Warburg will not produce a witness on this Topic as framed.</p>
16	Your projections of sales, revenue, profits, or market share for Sagent.	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “projection,” and “market share.” Warburg further objects that this Topic is overbroad, unduly burdensome, and seeks highly-sensitive business information of Warburg and Sagent that is not relevant to the Proposed Transaction.</p> <p>Warburg will not produce a witness on this Topic as framed.</p>
17	Your decision to buy Sagent and strategic plans regarding same.	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “strategic plans.” Warburg further objects that this Topic is overbroad, unduly burdensome, and seeks highly-sensitive business information of Warburg and Sagent that is not relevant to the Proposed Transaction.</p> <p>Warburg will not produce a witness on this Topic as framed.</p>
18	Your valuation of the equity shares in Sagent and Your communications with potential or actual Investors	<p>Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “valuation.” Warburg further objects that this Topic is overbroad, unduly burdensome, and seeks highly-sensitive</p>

**PUBLIC**

**KIRKLAND & ELLIS LLP**

June 2, 2023  
Page 19

**CONFIDENTIAL**

	in Sagent regarding the same	business information of Warburg and Sagent that is not relevant to the Proposed Transaction.  Warburg will not produce a witness on this Topic as framed.
19	Your management, operational and strategic relationship with Warburg, including with respect to operations, decision making, and overlapping board members, C-Suite, or other senior executives and personnel.	Warburg objects to the Topic as vague and ambiguous, particularly as to the terms “operational and strategic relationship,” “decision making,” and “other senior executives and personnel.” Warburg further objects that this Topic is overbroad, unduly burdensome, and seeks highly-sensitive information that is not relevant to the Proposed Transaction.  Warburg will not produce a witness on this Topic as framed.

We look forward to continuing to meet and confer regarding the corporate representative deposition subpoenas.

Sincerely,



Tammy Tsoumas

cc: Rachel Warren



**PUBLIC**

**APPENDIX 1**

(March 9, 2023 Protective Order Governing Confidential Material)

PUBLIC

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES

\_\_\_\_\_  
In the Matter of )  
 )  
 )  
Intercontinental Exchange, Inc. )  
 a corporation, and )  
 )  
Black Knight, Inc., )  
 a corporation, )  
 )  
Respondents. )  
\_\_\_\_\_

Docket No. 9413

**PROTECTIVE ORDER GOVERNING CONFIDENTIAL MATERIAL**

Commission Rule 3.31(d) states: “In order to protect the parties and third parties against improper use and disclosure of confidential information, the Administrative Law Judge shall issue a protective order as set forth in the appendix to this section.” Pursuant to Commission Rule 3.31(d), the protective order set forth in the appendix to that section is attached verbatim as Attachment A and is hereby issued.

ORDERED:



D. Michael Chappell  
Chief Administrative Law Judge

Date: March 9, 2023

PUBLIC

**ATTACHMENT A**

For the purpose of protecting the interests of the parties and third parties in the above-captioned matter against improper use and disclosure of confidential information submitted or produced in connection with this matter:

**IT IS HEREBY ORDERED THAT** this Protective Order Governing Confidential Material (“Protective Order”) shall govern the handling of all Discovery Material, as hereafter defined.

1. As used in this Order, “confidential material” shall refer to any document or portion thereof that contains privileged, competitively sensitive information, or sensitive personal information. “Sensitive personal information” shall refer to, but shall not be limited to, an individual’s Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver’s license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual’s medical records. “Document” shall refer to any discoverable writing, recording, transcript of oral testimony, or electronically stored information in the possession of a party or a third party. “Commission” shall refer to the Federal Trade Commission (“FTC”), or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this proceeding.
2. Any document or portion thereof submitted by a respondent or a third party during a Federal Trade Commission investigation or during the course of this proceeding that is entitled to confidentiality under the Federal Trade Commission Act, or any regulation, interpretation, or precedent concerning documents in the possession of the Commission, as well as any information taken from any portion of such document, shall be treated as confidential material for purposes of this Order. The identity of a third party submitting such confidential material shall also be treated as confidential material for the purposes of this Order where the submitter has requested such confidential treatment.
3. The parties and any third parties, in complying with informal discovery requests, disclosure requirements, or discovery demands in this proceeding may designate any responsive document or portion thereof as confidential material, including documents obtained by them from third parties pursuant to discovery or as otherwise obtained.
4. The parties, in conducting discovery from third parties, shall provide to each third party a copy of this Order so as to inform each such third party of his, her, or its rights herein.
5. A designation of confidentiality shall constitute a representation in good faith and after careful determination that the material is not reasonably believed to be already in the public domain and that counsel believes the material so designated constitutes confidential material as defined in Paragraph 1 of this Order.

PUBLIC

6. Material may be designated as confidential by placing on or affixing to the document containing such material (in such manner as will not interfere with the legibility thereof), or if an entire folder or box of documents is confidential by placing or affixing to that folder or box, the designation “CONFIDENTIAL – FTC Docket No. 9413” or any other appropriate notice that identifies this proceeding, together with an indication of the portion or portions of the document considered to be confidential material. Confidential information contained in electronic documents may also be designated as confidential by placing the designation “CONFIDENTIAL – FTC Docket No. 9413” or any other appropriate notice that identifies this proceeding, on the face of the CD or DVD or other medium on which the document is produced. Masked or otherwise redacted copies of documents may be produced where the portions deleted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been deleted and the reasons therefor.

7. Confidential material shall be disclosed only to: (a) the Administrative Law Judge presiding over this proceeding, personnel assisting the Administrative Law Judge, the Commission and its employees, and personnel retained by the Commission as experts or consultants for this proceeding; (b) judges and other court personnel of any court having jurisdiction over any appellate proceedings involving this matter; (c) outside counsel of record for any respondent, their associated attorneys and other employees of their law firm(s), provided they are not employees of a respondent; (d) anyone retained to assist outside counsel in the preparation or hearing of this proceeding including consultants, provided they are not affiliated in any way with a respondent and have signed an agreement to abide by the terms of the protective order; and (e) any witness or deponent who may have authored or received the information in question.

8. Disclosure of confidential material to any person described in Paragraph 7 of this Order shall be only for the purposes of the preparation and hearing of this proceeding, or any appeal therefrom, and for no other purpose whatsoever, provided, however, that the Commission may, subject to taking appropriate steps to preserve the confidentiality of such material, use or disclose confidential material as provided by its Rules of Practice; sections 6(f) and 21 of the Federal Trade Commission Act; or any other legal obligation imposed upon the Commission.

9. In the event that any confidential material is contained in any pleading, motion, exhibit or other paper filed or to be filed with the Secretary of the Commission, the Secretary shall be so informed by the Party filing such papers, and such papers shall be filed *in camera*. To the extent that such material was originally submitted by a third party, the party including the materials in its papers shall immediately notify the submitter of such inclusion. Confidential material contained in the papers shall continue to have *in camera* treatment until further order of the Administrative Law Judge, provided, however, that such papers may be furnished to persons or entities who may receive confidential material pursuant to Paragraphs 7 or 8. Upon or after filing any paper containing confidential material, the filing party shall file on the public record a duplicate copy of the paper that does not reveal confidential material. Further, if the protection for any such material expires, a party may file on the public record a duplicate copy which also contains the formerly protected material.

10. If counsel plans to introduce into evidence at the hearing any document or transcript containing confidential material produced by another party or by a third party, they shall provide advance notice to the other party or third party for purposes of allowing that party to seek an order that the document or transcript be granted *in camera* treatment. If that party wishes *in*

**PUBLIC**

*camera* treatment for the document or transcript, the party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives such notice. Except where such an order is granted, all documents and transcripts shall be part of the public record. Where *in camera* treatment is granted, a duplicate copy of such document or transcript with the confidential material deleted therefrom may be placed on the public record.

11. If any party receives a discovery request in any investigation or in any other proceeding or matter that may require the disclosure of confidential material submitted by another party or third party, the recipient of the discovery request shall promptly notify the submitter of receipt of such request. Unless a shorter time is mandated by an order of a court, such notification shall be in writing and be received by the submitter at least 10 business days before production, and shall include a copy of this Protective Order and a cover letter that will apprise the submitter of its rights hereunder. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Order to challenge or appeal any order requiring production of confidential material, to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Administrative Law Judge or the Commission. The recipient shall not oppose the submitter's efforts to challenge the disclosure of confidential material. In addition, nothing herein shall limit the applicability of Rule 4.11(e) of the Commission's Rules of Practice, 16 CFR 4.11(e), to discovery requests in another proceeding that are directed to the Commission.

12. At the time that any consultant or other person retained to assist counsel in the preparation of this action concludes participation in the action, such person shall return to counsel all copies of documents or portions thereof designated confidential that are in the possession of such person, together with all notes, memoranda or other papers containing confidential information. At the conclusion of this proceeding, including the exhaustion of judicial review, the parties shall return documents obtained in this action to their submitters, provided, however, that the Commission's obligation to return documents shall be governed by the provisions of Rule 4.12 of the Rules of Practice, 16 CFR 4.12.

13. The provisions of this Protective Order, insofar as they restrict the communication and use of confidential discovery material, shall, without written permission of the submitter or further order of the Commission, continue to be binding after the conclusion of this proceeding.

**CERTIFICATE OF SERVICE**

I hereby certify that on June 15, 2023, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

April Tabor  
Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-113  
Washington, DC 20580  
ElectronicFilings@ftc.gov

The Honorable D. Michael  
Chappell Administrative Law  
Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

I also certify that I caused the foregoing document to be served via email to:

Catharine Bill  
Steven Couper  
Caitlin Cipicchio  
Jessica S. Drake  
Kurt Herrera-Heintz  
Ashley Masters  
Lauren Sillman  
Nicolas Stebinger  
Nina Thanawala  
Taylor Weaver  
Abigail Wood  
Daniel Aldrich  
Abby L. Dennis  
Janet J. Kim  
Christopher Lamar  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Jonathan M. Moses  
Nelson O. Fitts  
Sarah K. Eddy  
Adam L. Goodman  
Wachtell, Lipton, Rosen & Katz  
51 West 52nd Street  
New York, NY 10019  
  
*Counsel for Black Knight, Inc.*

Tammy A. Tsoumas  
Kirkland & Ellis LLP  
2049 Century Part East  
Los Angeles, CA 90067  
  
*Counsel for Sagent M&C,  
LLC and Warburg Pincus LLC*

*Counsel Supporting the Complaint*

*/s/ Benjamin Sirota*  
\_\_\_\_\_  
Benjamin Sirota