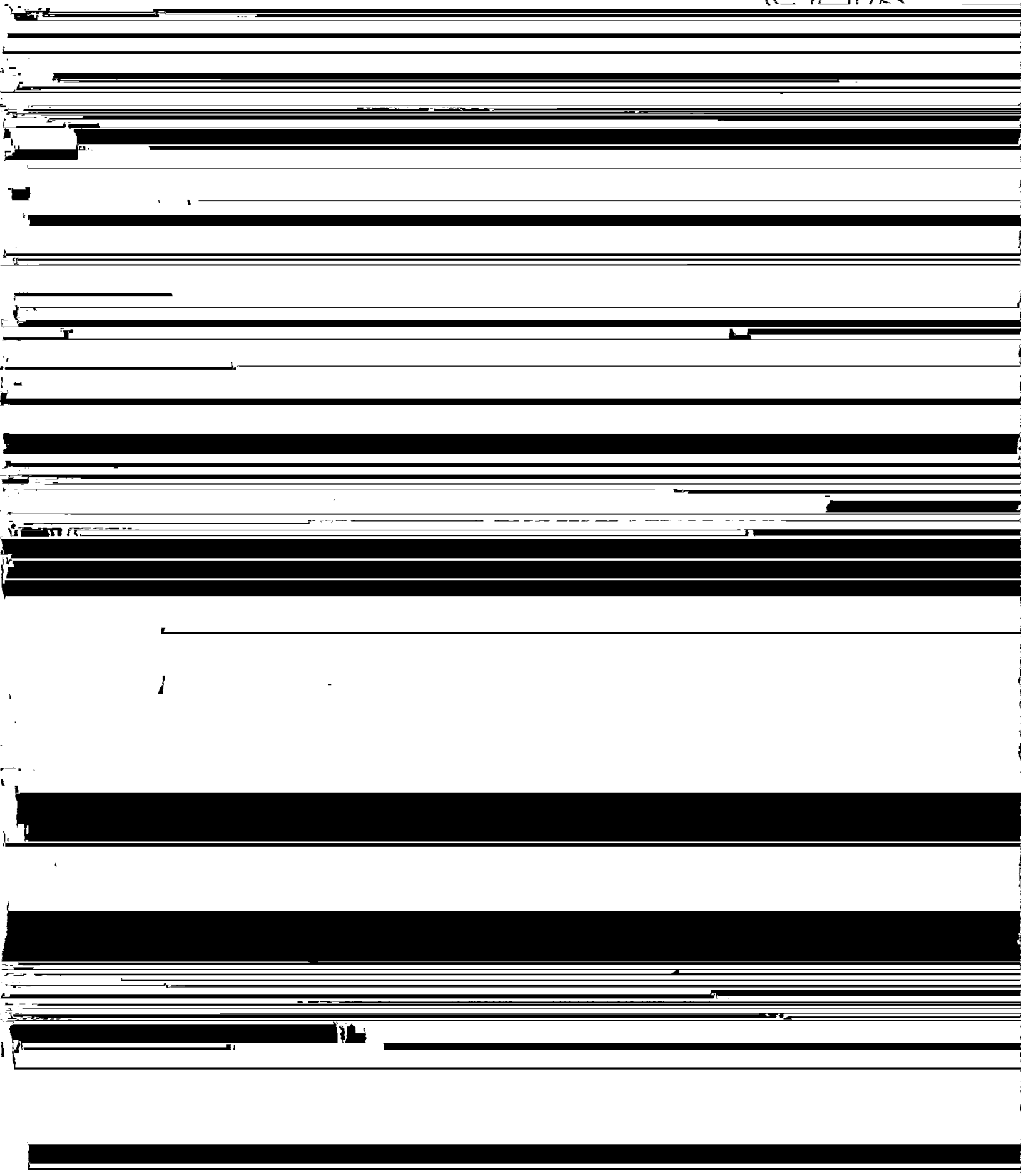


COE



Literally tens of thousands of pages of documents obtained by the Commission through compulsory process are unrelated to the products and advertisements that form the basis of the Commission's claims against Respondents in this proceeding.¹ Respondents respectfully submit the Commission has included in its designation of hearing exhibits hundreds of documents so

¹ Commission has designated some documents as exhibits with the following list: Exhibit 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

be provided to information that is three or more years old. See January 25, 2006 Order, pp. 2-4.⁴

Accordingly, pursuant to 16 C.F.R. § 3.45 and the December 5th and January 25th Orders

Dependants respectfully submit this Second Revised Motion for In Camera Treatment of ST-1

exhibits. In this submission we have: 1) carefully reviewed all deposition transcripts

- (2) Commercial information, such as *marketing strategies, confidential consulting and license arrangements, advertising dissemination schedules*; and
- (3) Financial information, such as *advertising expenditures and gross revenue figures, profits and revenue balance sheets, royalty and licensing agreements, and confidential business information*.

at *2 (Feb. 9, 2005); *In re Coca Cola Co.*, 1990 F.T.C. LEXIS 364, at *7 (Oct. 17, 1990). The ALJ further noted in his January 25th Order the presumption under Commission law that *in camera* treatment will not be provided to information that is three or more years old. *In re Hoechst Marion Roussel, Inc.*, 2000 FTC LEXIS 157, at *5 (Nov. 22, 2000). However, administrative courts have granted indefinite *in camera* status for “trade secrets, such as secret formulas, processes, and other secret technical information, and information that is similar.”

information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

The Commission has concluded that the disclosure of confidential information is

necessarily require a specific demonstration of the manner in which other companies would use material to the disadvantage of the company whose information is at issue. *E.I. DuPont de Nemours & Co.* 1093 F.T.C. LEVY 01 at *2. *Reith*, 471 F.2d 1059, 1064 (10th Cir. 1972) (quoting *E.I. DuPont de Nemours & Co.* 1093 F.T.C. LEVY 01 at *2). *Reith*, 471 F.2d at 1064 (quoting *E.I. DuPont de Nemours & Co.* 1093 F.T.C. LEVY 01 at *2). *Reith*, 471 F.2d at 1064 (quoting *E.I. DuPont de Nemours & Co.* 1093 F.T.C. LEVY 01 at *2).

(11) Attachment 11—Settlement Documents: and

(12) Attachment 12—Those Documents that Merit Coverage Under More than One of the Other Categories.⁵

The documents contained in each of these categories contain information sufficiently

competitive injury under prevailing Commission law, as they contain: *(a) trade secrets (b)*

confidential commercial information and (c) confidential financial information. A complete

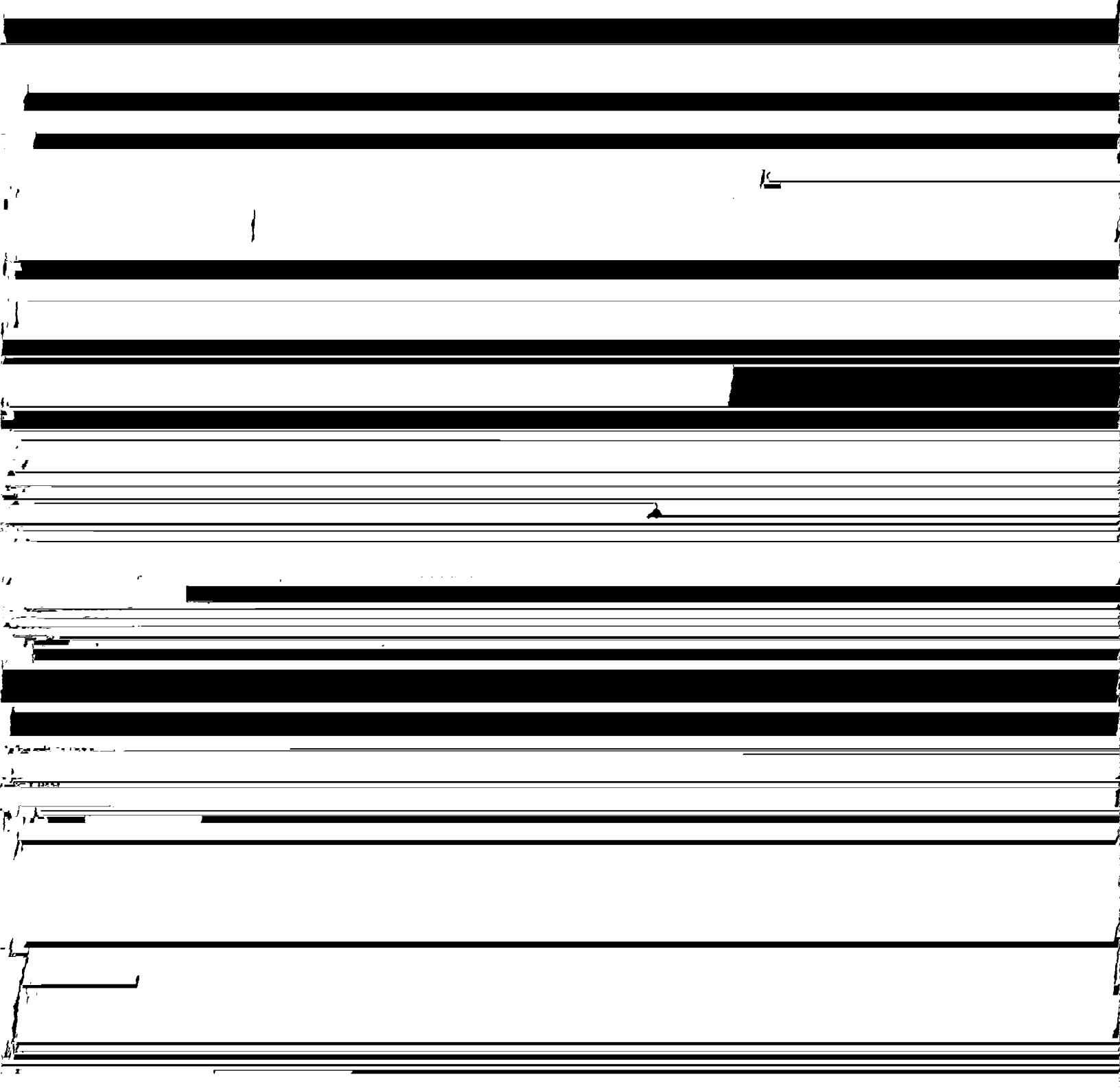
These documents contain lists or descriptions of the ingredients and ratios of amounts for

each of the following products: Pillsbury Dough #10 (1990) Attachment 1 Attachment 1.1

processes” when the dissemination of the information would cause harm to the possessor

company. *H.P. Hood & Sons, Inc.*, 58 F.T.C. at 1189. For example, *in camera* treatment has

been granted to protect “batch data for CAPP summertime cooling.” *In re Union Oil Co. of*



Respondents' trial exhibits contain secret compilations of substantiation materials the
Respondents accumulated during the development of their products to support their advertising

... and mode of administration ...

of the active ingredients. See "Attachment 3" to Fobbs Dec.; see also Declaration of Gina Gay

... Commission requested that

2003) (citing *Essex Group, Inc. v. Southwire Co.*, 501 S.E.2d 501, 503 (Ga. 1998) (quoting
Restatement 3d of Unfair Competition § 39(f) (1995))). Indeed, "Both the Uniform Trade

Secrets Act and the courts agree that information may be classified as a trade secret regardless

Employees having access to the list were instructed to keep it at their desk and were prohibited from removing the list from the office. *Unistar Corp.*, 415 So.2d at 734. The court held that the list was a trade secret and could not be used by two former employees to compete against the plaintiff. *Id.* The court reasoned that the list of dealers was a result of “considerable effort, knowledge, time, and expense on the part of the plaintiff.” *Id.*

Respondent's substantiation compilations are protected trade secrets deserving of the

1

result in a clearly defined serious injury. See *In re Asnon Tech. Inc.* 2004 FTC LEXIS 56 at *2

(May 5, 2004) (emphasis added) (“[e]xamples of documents meriting indefinite in camera

treatment are trade secrets, such as secret...processes”).⁸

As established in Section II.C.1. *supra*, Respondents’ substantiation compilations are closely

guarded trade secrets. There are a large number of competitors who desire to copy

Respondents’ substantiation compilations. 11 C.F.R. 1.101 (b) (7) (ii)

] Although the Commission has an interest in public disclosure of Respondents' substantiation compilations to explain its decision, this interest is clearly outweighed by the likelihood of the clearly defined and serious competitive injury to

that these documents "do not meet the standards for in-camera treatment as confidential information."

records" because "disclosure of this information would result in a clearly defined serious competitive injury to Respondents." *In re Basic Research, et al.*, Docket No. 9318, Order Certifying Motions to Commission and Staying Proceedings, 9 (Apr. 6, 2005). The effects of

disclosing this sensitive business information have not changed since the issuance of the Commission's

established that the information contained in these exhibits is sufficiently secret, and sufficiently material to Respondents' business, that a clearly defined, serious injury would result in the event

G. Attachment 7: Royalty and Licensing Agreements

same treatment. Consequently, Defendants are no longer seeking in-camera treatment or

sales of specific products). As such, it is appropriate to protect Defendants from companies

unfairly trading upon this information to gain a competitive advantage. *See* Fobbs Dec., ¶ 65.

The sensitivity of this information is supported by the documents themselves and the

“secrecy” and “materiality” factors. Fobbs Dec., ¶¶ 62-67. Additionally, this Court previously

determined that the Discrimination Schedule in Attachment D qualified, at least in part, as

supporting declarations show the documents are “confidential” and their dissemination “would result in a clearly defined, serious injury.” *Evanston Northwestern Health Corp.*, 2005 F.T.C.

held in confidence both internally, limiting access to the information to only those who need it to complete their daily tasks, and externally from competitors. *See Fobbs Dec.*, ¶¶ 70-72.

agreements from being part of the public record in an adjudicatory proceeding unless and

until the Commission accepts the agreement. See Fobbs Dec. ¶ 81. Finally, the public may

misperceive Respondents attempts to settle as an admission of guilt, thereby damaging

Respondents reputation and negatively affecting product sales. See Fobbs Dec. ¶ 82

[REDACTED]

[REDACTED]

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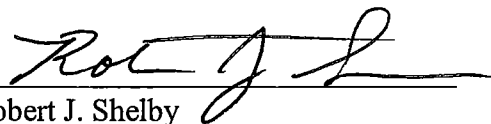
the ALJ, and to reduce the volume of material presented, those documents are not separately

listed in each applicable category. They are, instead, compiled in a new Attachment 12

inclusion of the exhibit in the *in camera* motion.

2th

BURBIDGE & MITCHELL



Robert J. Shelby

BURBIDGE & MITCHELL

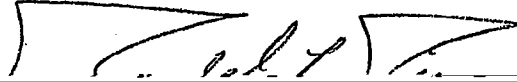
215 S. State Street, #920

Salt Lake City, Utah 84111

Telephone: 801/355-6677

Facsimile: 801/355-2341

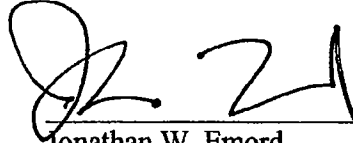
Respectfully Submitted,

A handwritten signature in black ink, appearing to be "J. L. ...", enclosed within a simple rectangular box.

A Professional Corporation
340 Broadway Centre
111 East Broadway
Salt Lake City, Utah 84111

Dated this 3rdth day of February, 2006

Respectfully submitted,



Jonathan W. Emord
Emord & Associates P.C.
1800 Alexander Bell Dr.
Suite 200
Reston VA 20191
(202) 466-6937

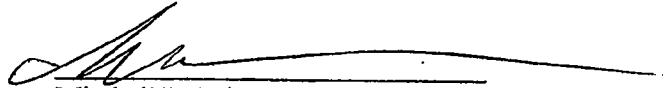
Jemord@emord.com

General for Davis Research, LLC

A.G. Waterhouse LLC
Klein-Becker USA, LLC
Nutrasport LLC
Sovage Dermatologic Laboratories, LLC
BAN LLC

Dated this 3rd day of February, 2006

Respectfully submitted,



Mitchell K. Friedlander
5742 West Harold Gatty Drive
Salt Lake City, UT 84116
Mkf555@msn.com

Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of February, 2006, I caused the foregoing **PUBLIC**

HEARINGS FOR INCAMERA

[REDACTED]

Email: lkapin@ftc.gov

(5) one paper copy by first class U.S. mail:

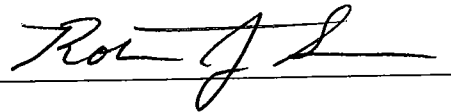
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Mitchell K. Friedlander
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Salt Lake City, Utah 84116
Email: mkf555@msn.com



A handwritten signature in black ink, appearing to read "Ron F. Price", is written over a horizontal line.

Table 1

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX023-A			1
CX-502			1
CX-787		R0041733	1
RX-045		N/A	1
RX-068		N/A	1
RX-144		N/A	1
RX-272		BPI000092 THRU BPI000093	1
RX-273		BPI000081	

REFRACTED

Table 1

Exhibit No.	Title or Description	Bates No.	Categories
RX-280		SDT00484 THRU SDT00494	2
RX-281		SDT00500 THRU SDT00522	2
RX-282		SDT00470 THRU SDT000524	2
RX-283		SDT00525 THRU SDT000530	2

Table 1

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
RX-300		SDT00661 THRU SDT00739	2
RX-301		SDT00411 THRU SDT00423	2

Table 1

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
RX-319		BPI000109 THRU BPI000123	4
RX-710		NC11476 THRU NC11498	4

Table 1

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
RX-096		N/A	6
RX-097		N/A	6
RX-125		FTC4495 THRU FTC4523	6
		COINFO- 000001/94- COINFO 000001-107 (BASIC RESEARCH BATES: 8000001- 000001/94- 000001-107	

ACTED

Table 1

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX-203		R0034370 (ALSO MARKED AS R0033185)	10
CX-209		R0033070	10
CX-210		R0035122	10

Table 1

Title	Description	Date No.	Category
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Table 1

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Table 1

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
RX-134		FTC 4566 THRU FTC 4571	11
RX-136		FC000290	11

Table 1

Entry No.	Title or Description	Date No.	Category
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

CX-937

5033482-
5033509

12

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

In the Matter of)
)
)

BASIC RESEARCH I, L, C)
)
)

NUTRASPORT, L.L.C.,)
SOVAGE DERMALOGIC LABORATORIES, I, L, C.)

DOCKET NO 0312

BAN, L.L.C.,)
DENNIS GAY,)
DANIEL B. MOWREY)

MITCHELL K. FRIEDLANDER)
)

These comprehensive reviews were conducted for purposes of determining which designated exhibits contain confidential information, the public disclosure of which would cause a clearly defined, serious injury to Respondents.

5. Following receipt of the Administrative Law Judge's ("ALJ") December 5, 2005 Order (the "December 5th Order") on our Original Motion, we conducted a second review of all of the documents that were the subject of our Original Motion pursuant to the directives set forth in the December 5th Order. Subsequently, following receipt of the ALJ's January 25, 2006 Order (the "January 25th Order") on our First Revised Motion, we conducted a third review of the documents subject of the First Revised Motion pursuant to the directives set forth in the January

6. In all three reviews, I employed a coordinated approach utilizing the assistance of

a small number of agents working under my direction. These agents were instructed on the Commission's strict standards for *in camera* treatment of trial exhibits and were provided copies of the ALJ's December 5th and January 25th Orders for purposes of conducting the reviews.

and for convenience's sake, organized and generally categorized in Attachments hereto as:

(1) Attachment 1—Product Formulation;

(2) Attachment 2—Third-Party Testing;

(3) Attachment 3—[REDACTED]

(4) Attachment 4—Grant Applications;

(5) Attachment 5—Gross Revenue and Advertising Expenditures

11. The product formulation documents comprise charts, emails, faxes and other internal documents. The product formulation information is not known outside of Respondents' business, except by certain third-party companies who manufacture the products. In those instances, Respondents have maintained confidentiality agreements with each manufacturer in order to protect the secrecy of the information in question.

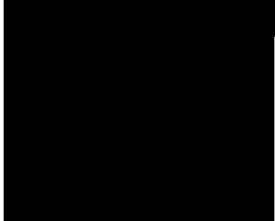
12. Product formulation information is closely guarded. Only those employees within Respondents' business who are authorized to have access to this information are permitted to have access to this information.

competitors because ephedra-containing products may still be being sold in other countries where sale of such products is allowed. As such, competitors could easily save hundreds of thousands of dollars and years of research and development costs and time if they had access to

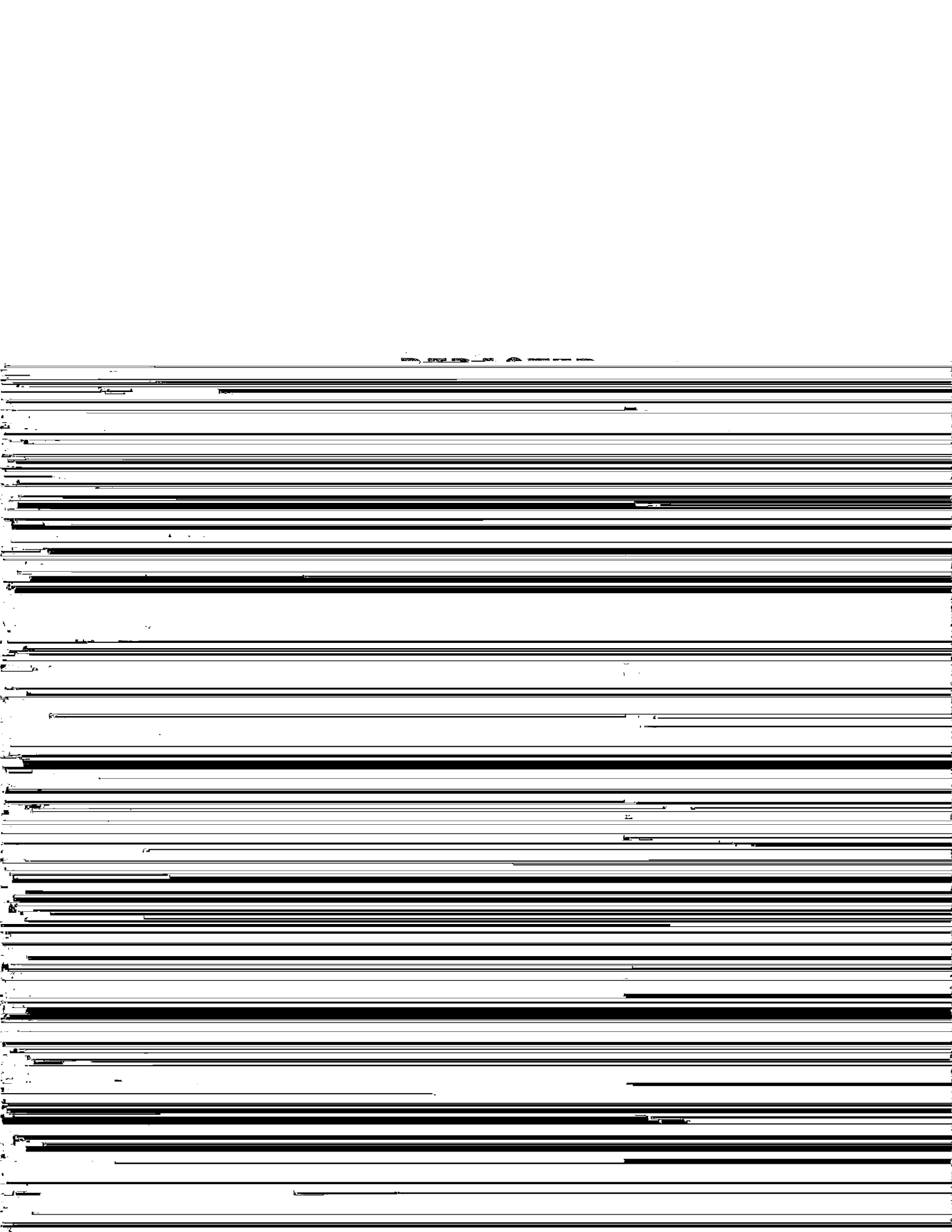
Respondents' product formulation data.

15. Respondents expended literally hundreds of thousands of dollars and years

REDACTED







REDACTED

REDACTED



REDACTED



ACTED



NOTED

NOTED

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those employees whose job duties require them to have such information. For example, an

employee in the research and development department or the legal department would be covered

to such materials, whereas customer service employees are not.

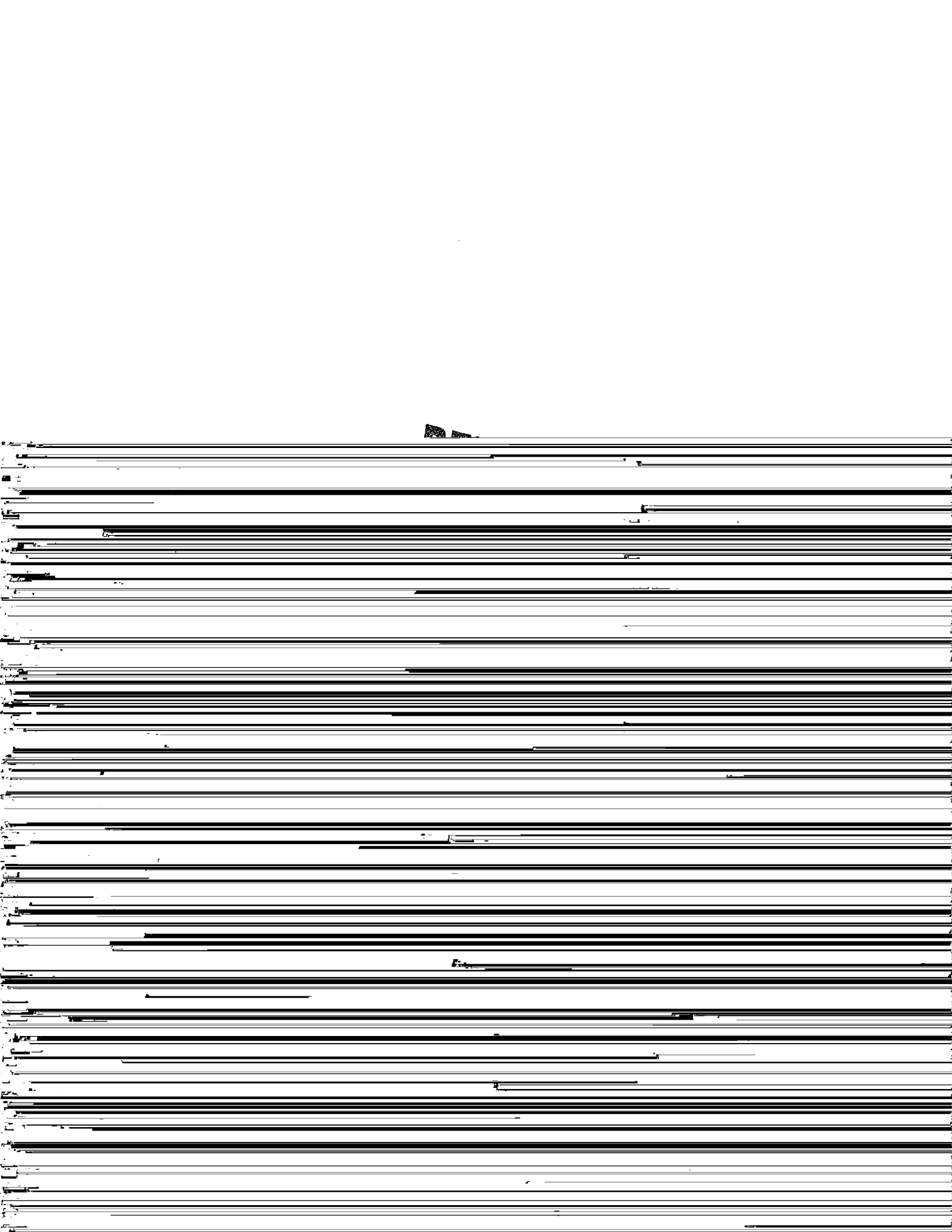
31. Respondents have expended considerable time and resources carefully constructing these compilations. [

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32. The combinations of materials in the substantiation compilations are unique. To Respondents' knowledge, they exist nowhere else. It is highly unlikely that a third party could duplicate the exact construction of these compilations without having access to them. Even

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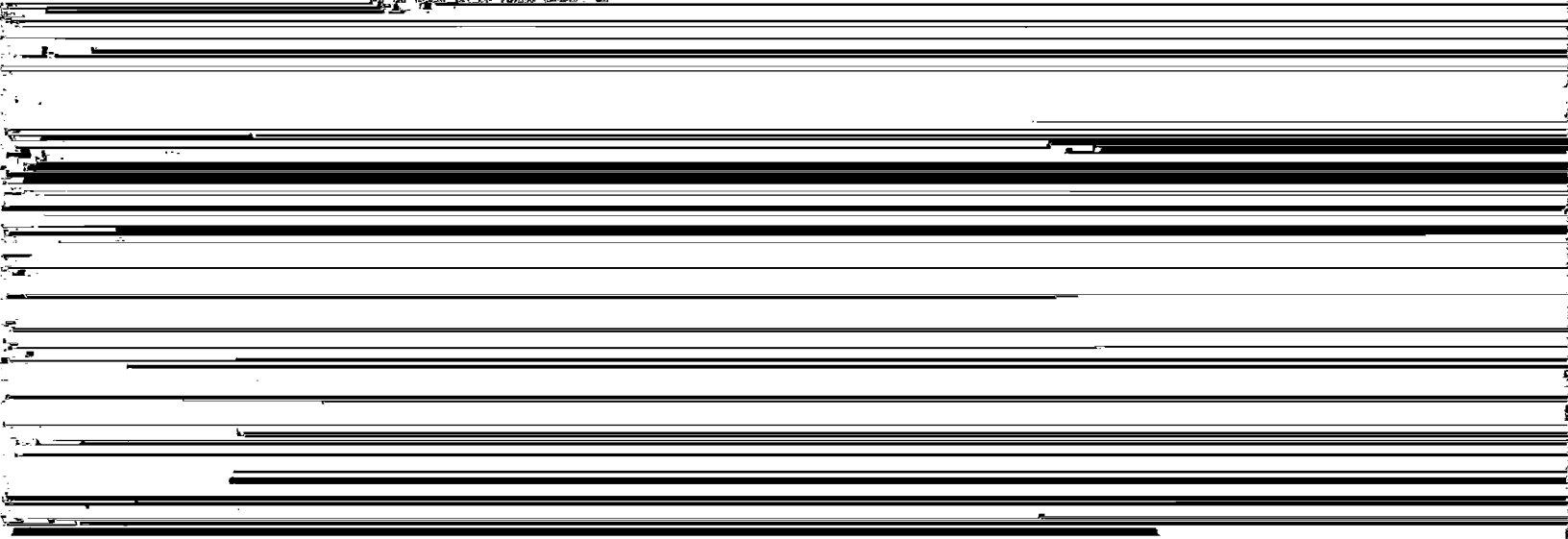


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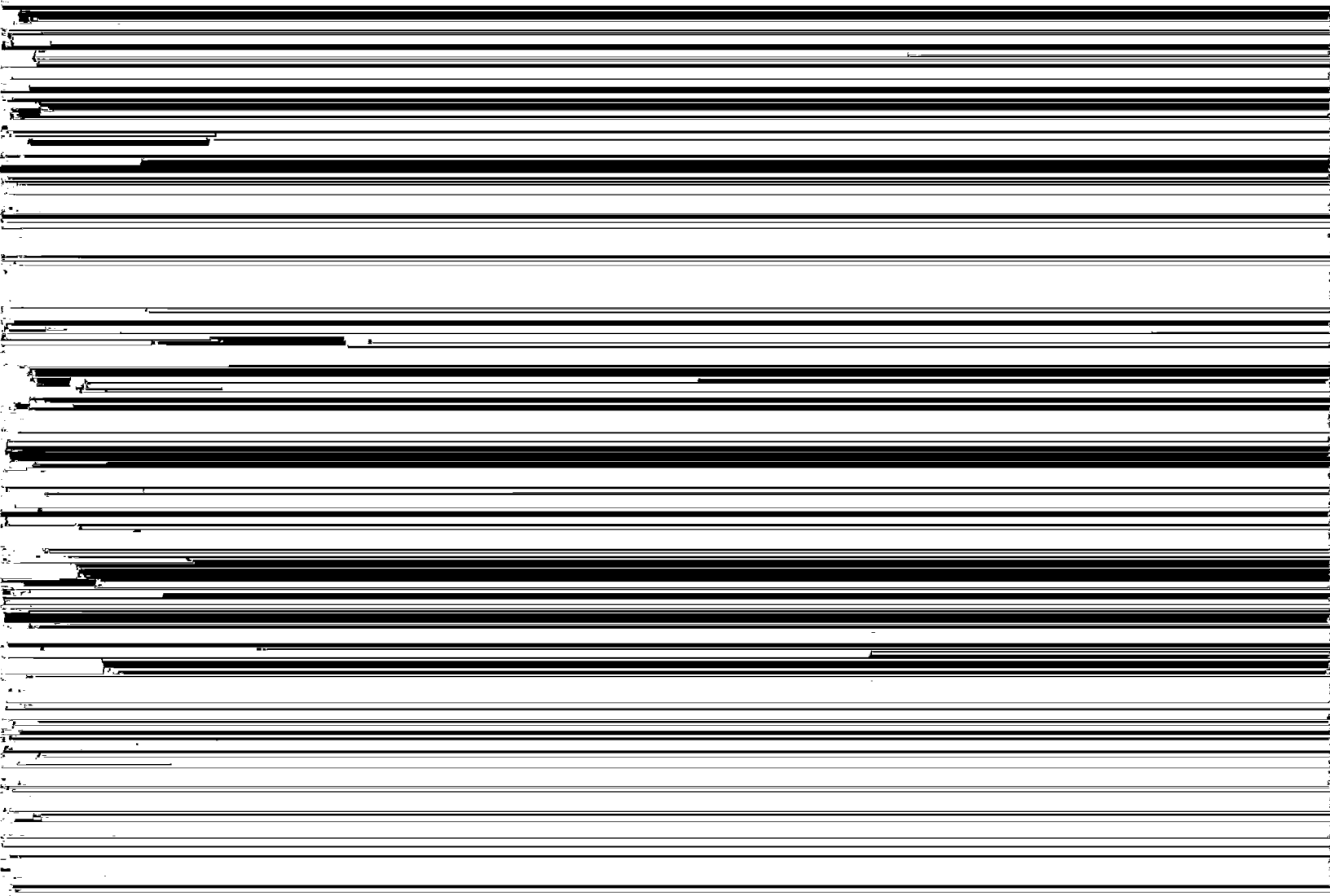
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2022 2021 2020 2019 2018 2017 2016

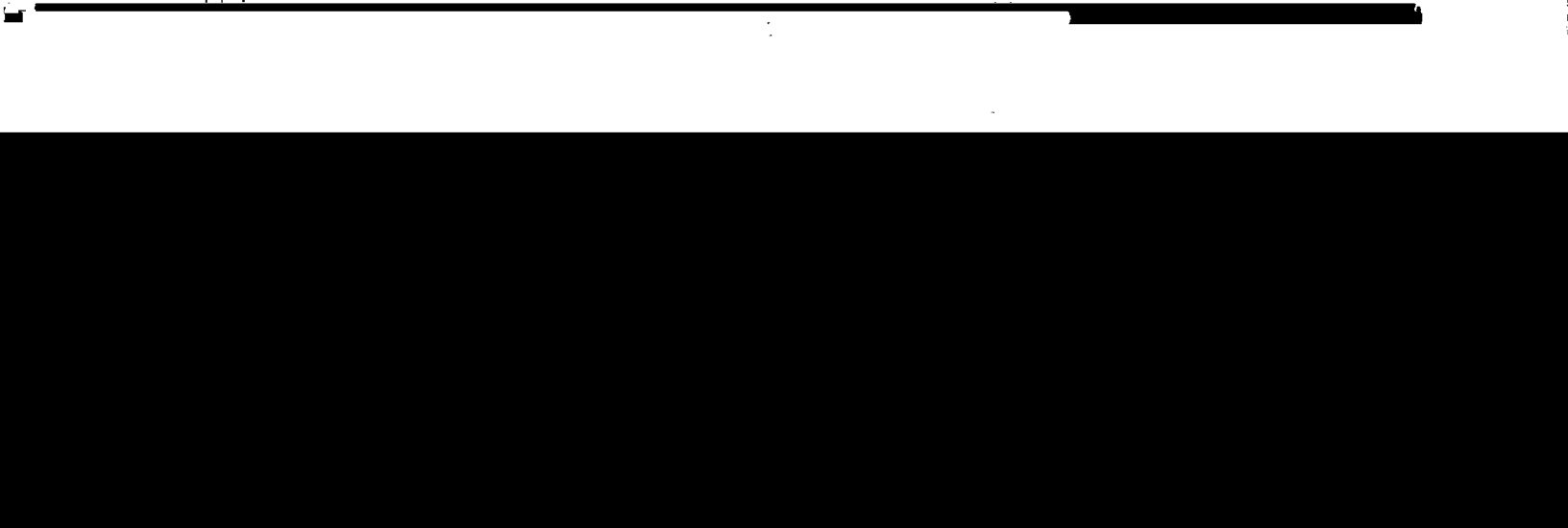
1111

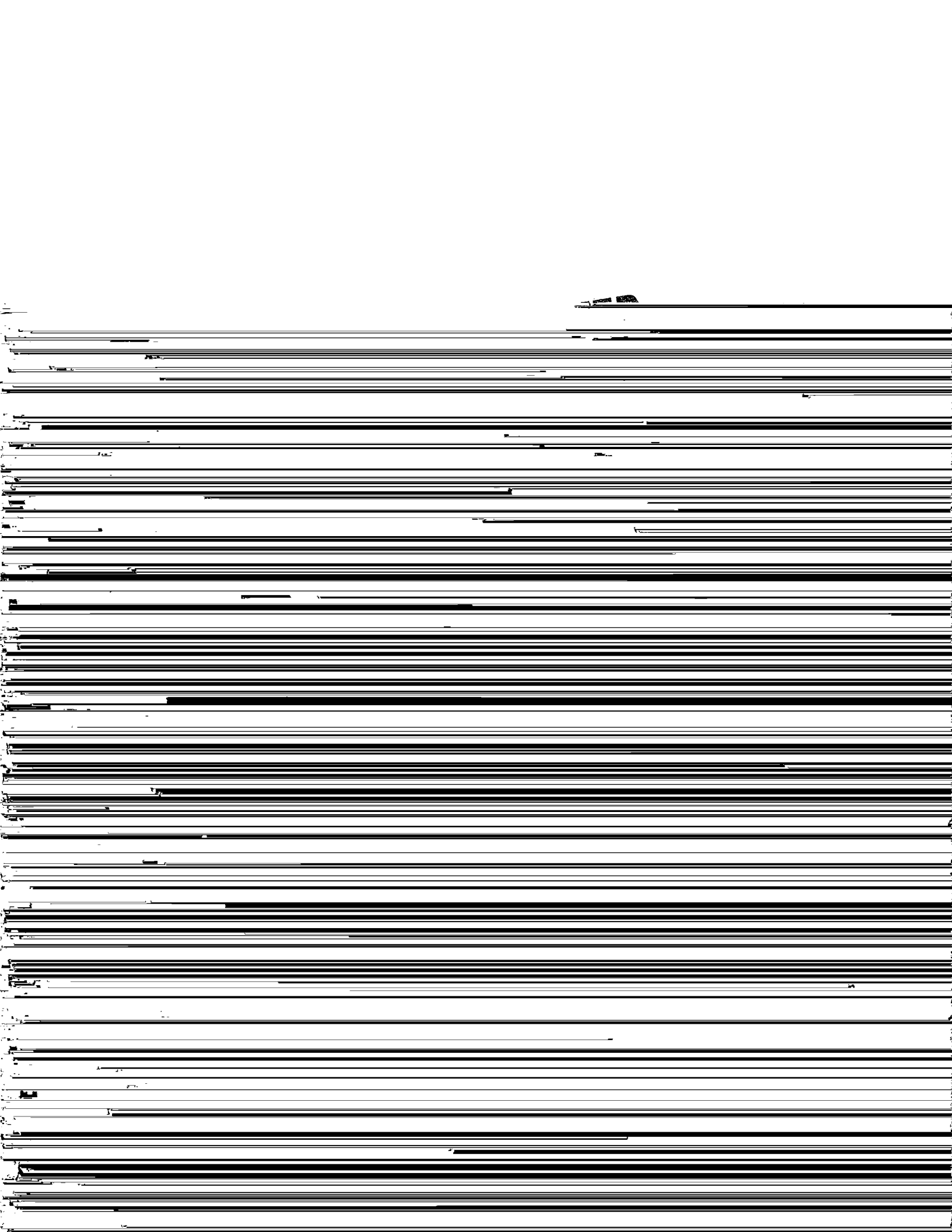
REDACTED

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37. Respondents protect their research information very closely. All of Respondents' employees who receive such information understand that this information is highly confidential

and cannot be disclosed to any person, even within Respondents' businesses, who does not need

[REDACTED]

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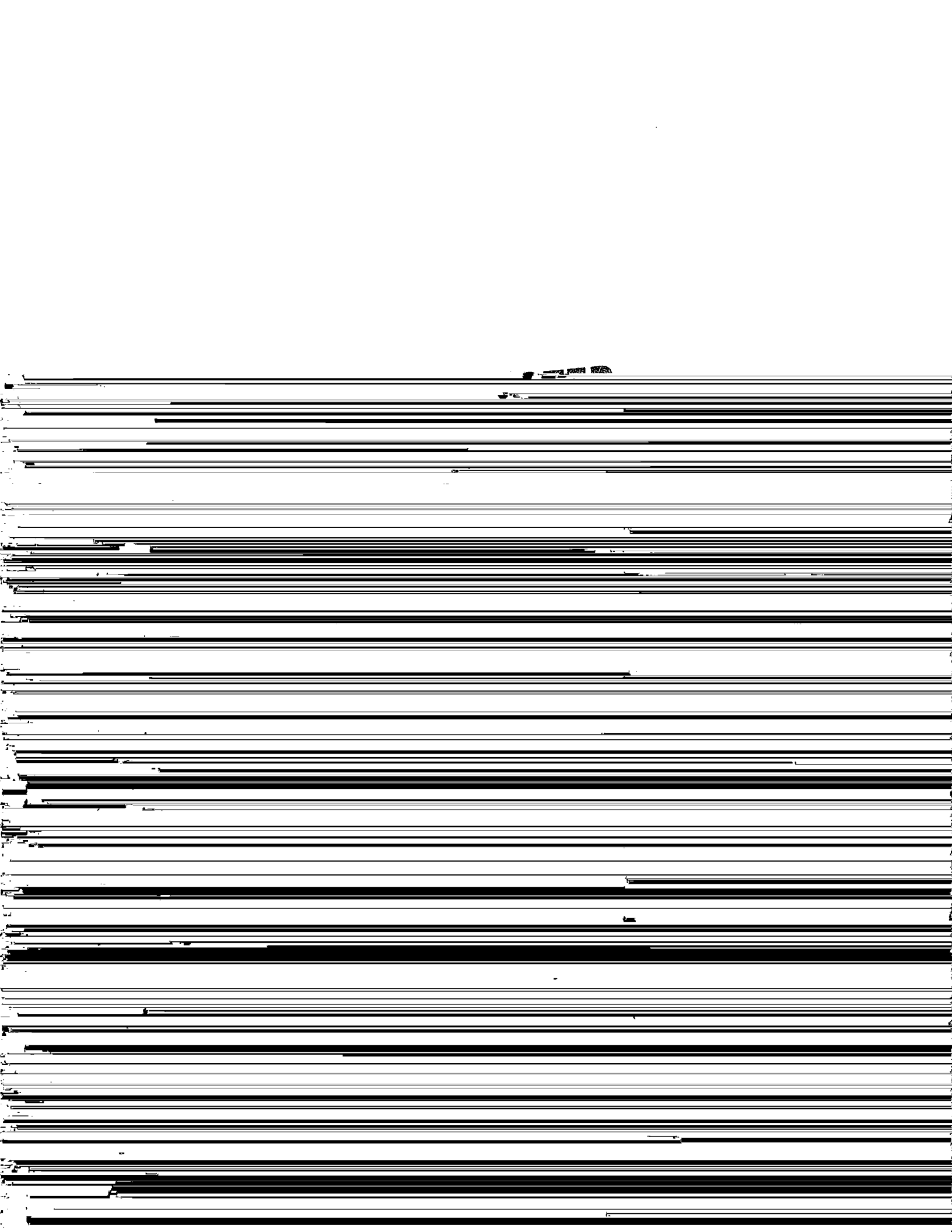
]

41. Public disclosure of Respondents' grant applications would cause a clearly defined, serious injury to Respondents.

a need to know. Further, this information is not disclosed outside the company, except to those professionals who have a duty to maintain such information in confidence.

16. Plaintiff's proposed advertising expenditures for the challenged products

[REDACTED]

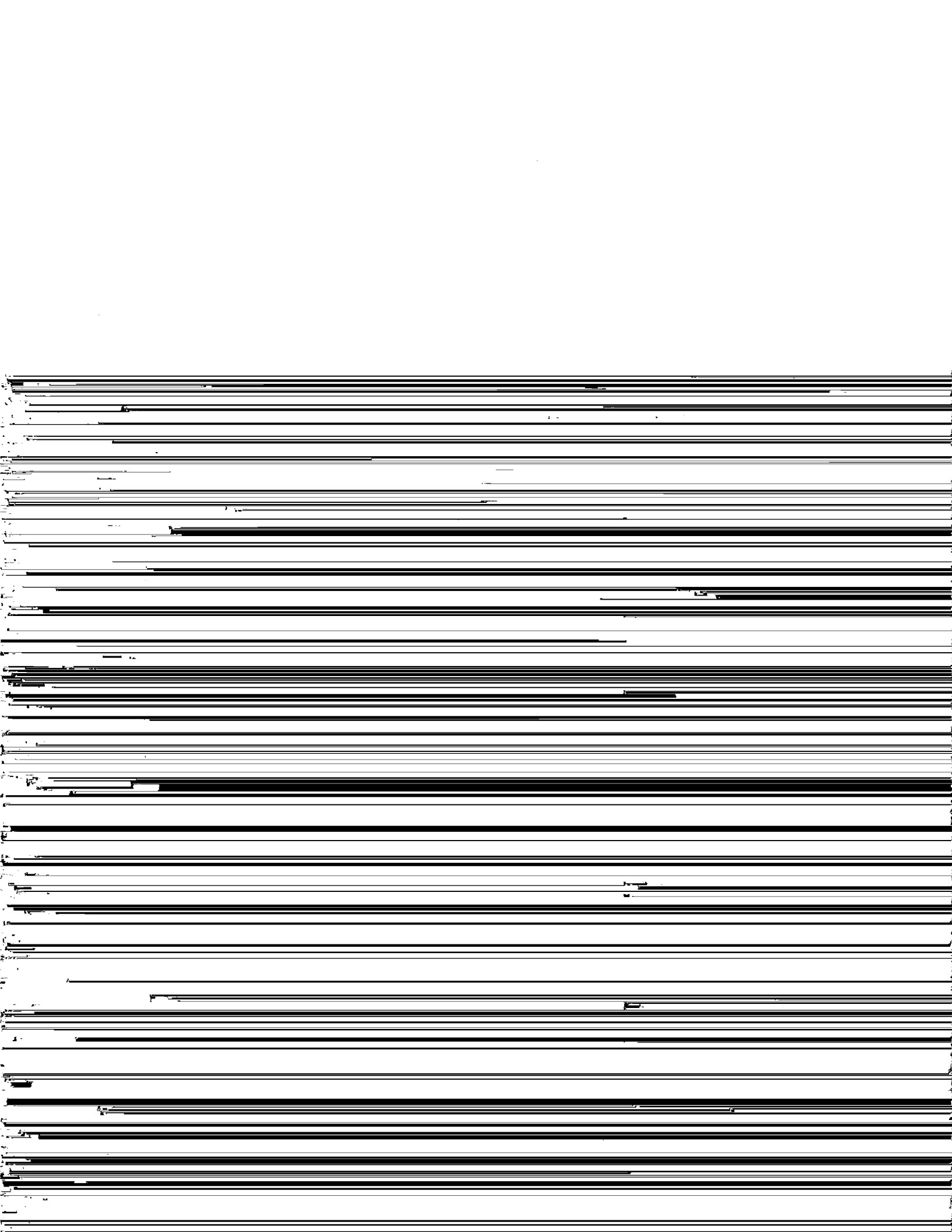


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present to their net sales revenue and deductive expenses data. Respondents' balance sheets

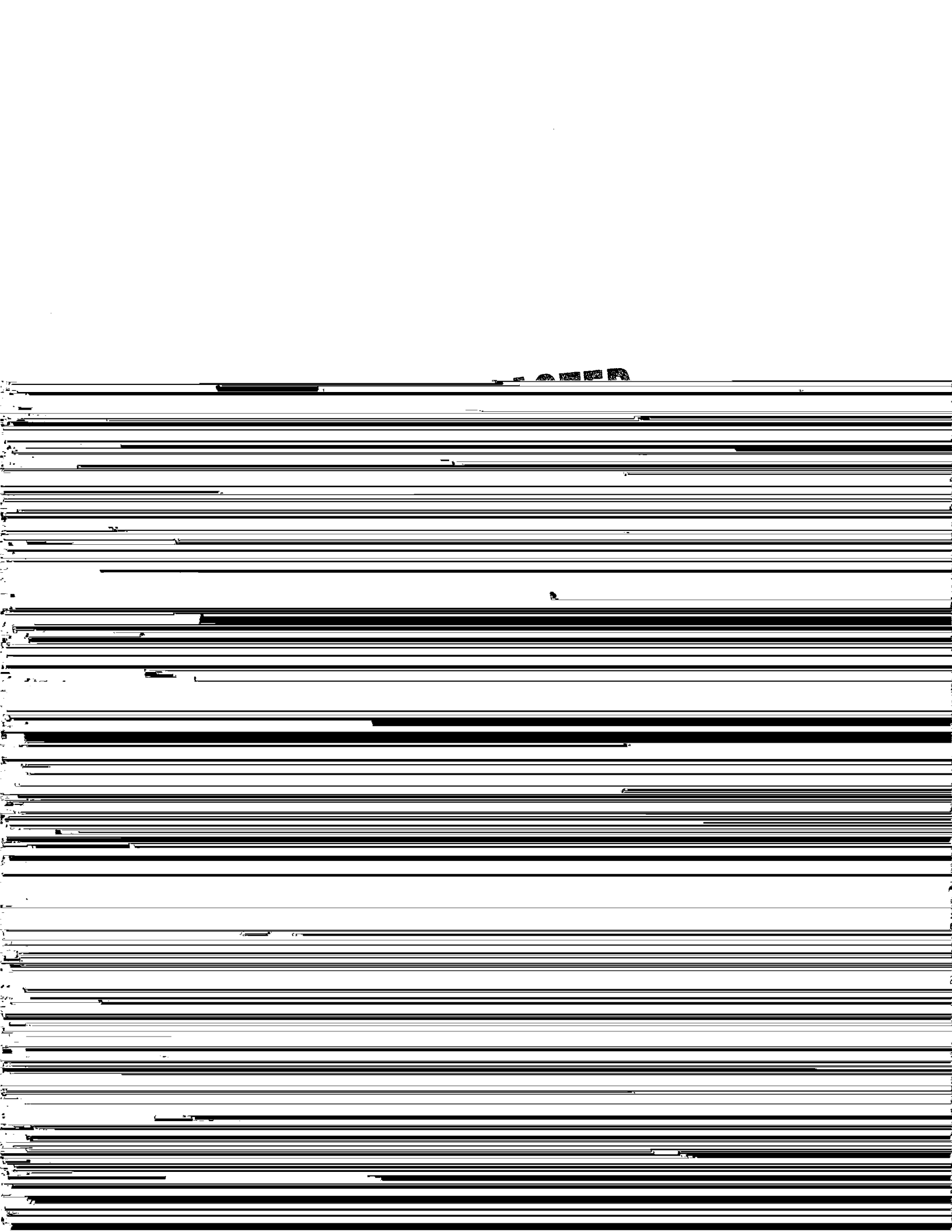
disclosing their assets and liabilities are valuable to Respondents' competitors because they allow the competitors to construct an accurate financial model of Respondents' business to



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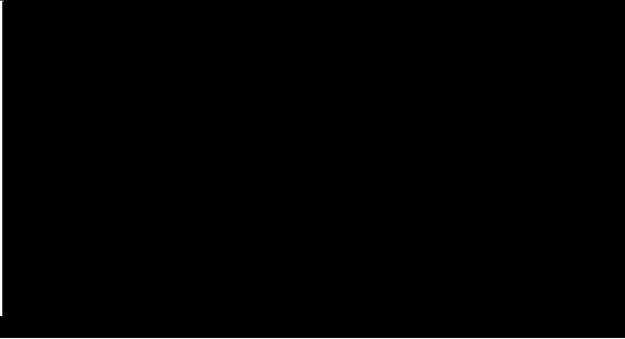
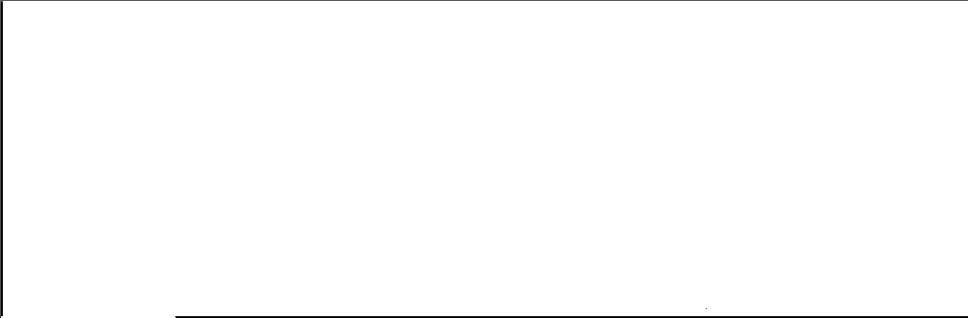
1947

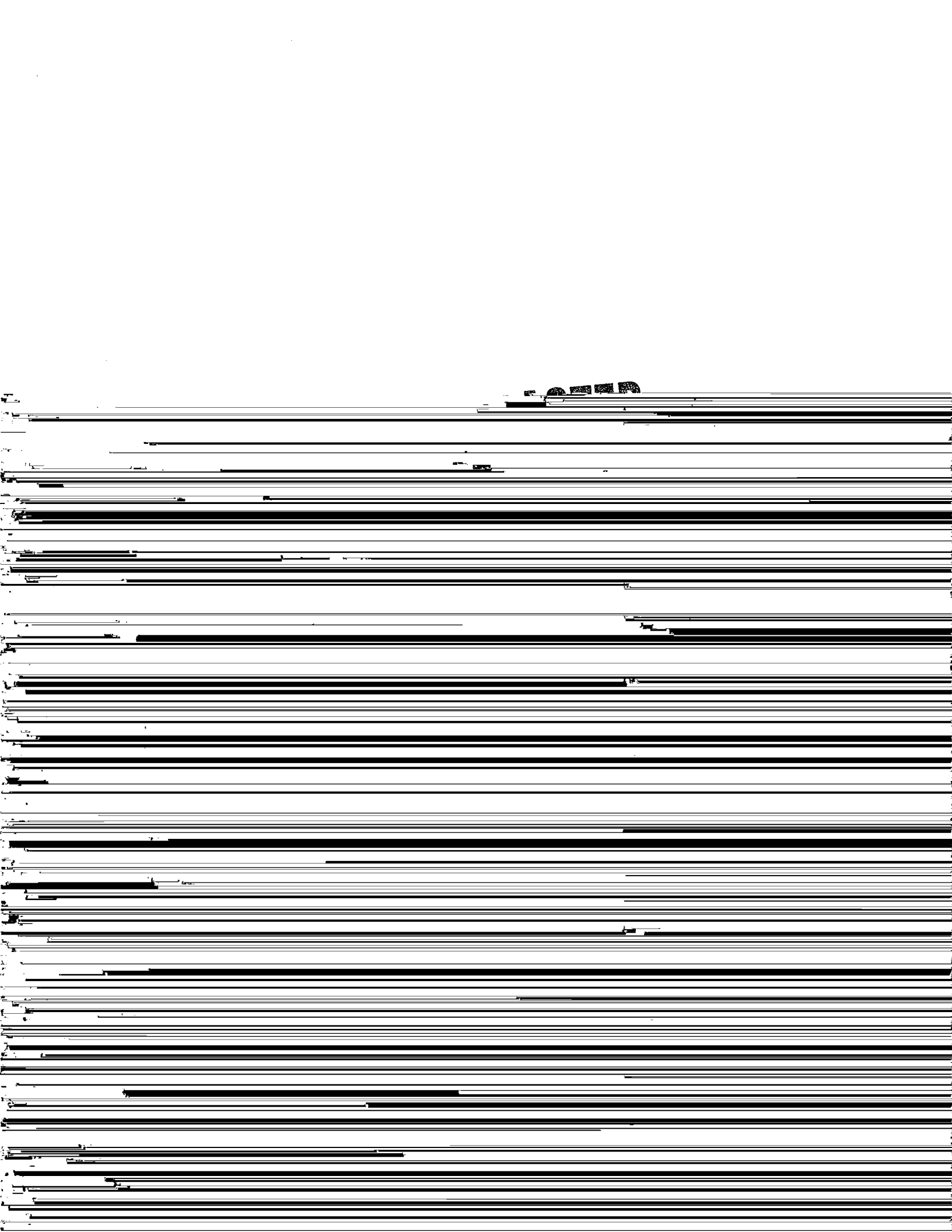
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52. Public disclosure of the balance sheets detailing Respondents' assets and

information for all the reasons detailed above regarding Respondents' net gross revenue and

advertising expenditures. Respondents protect and limit access to their licensing and royalty

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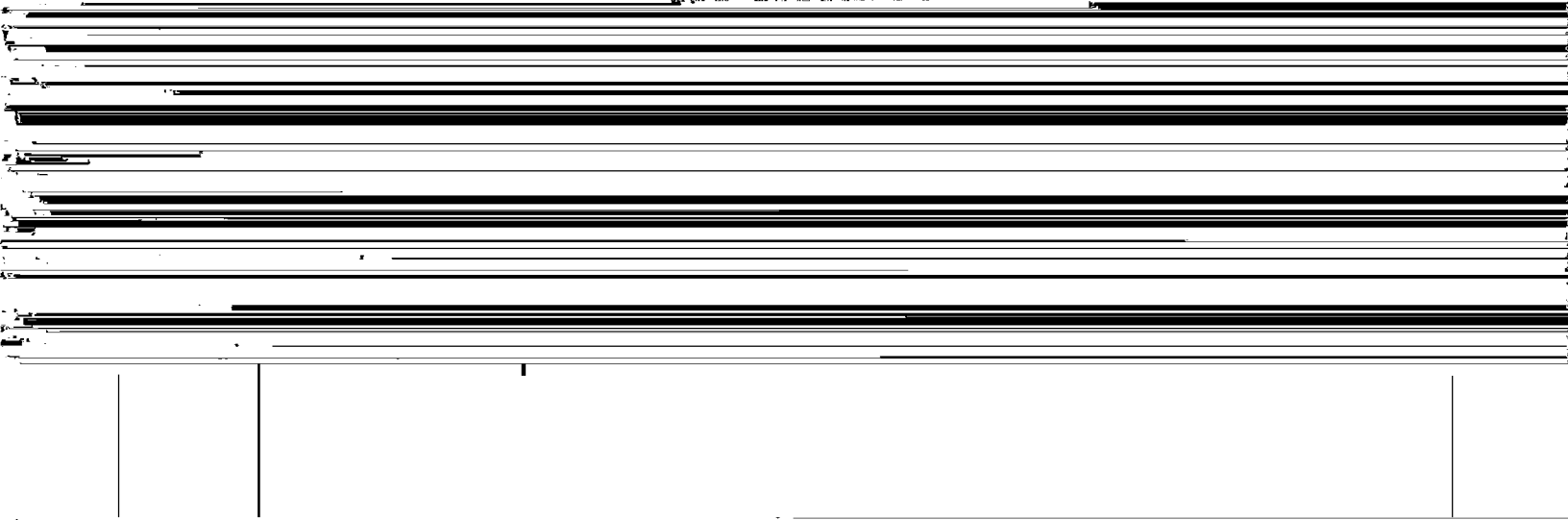
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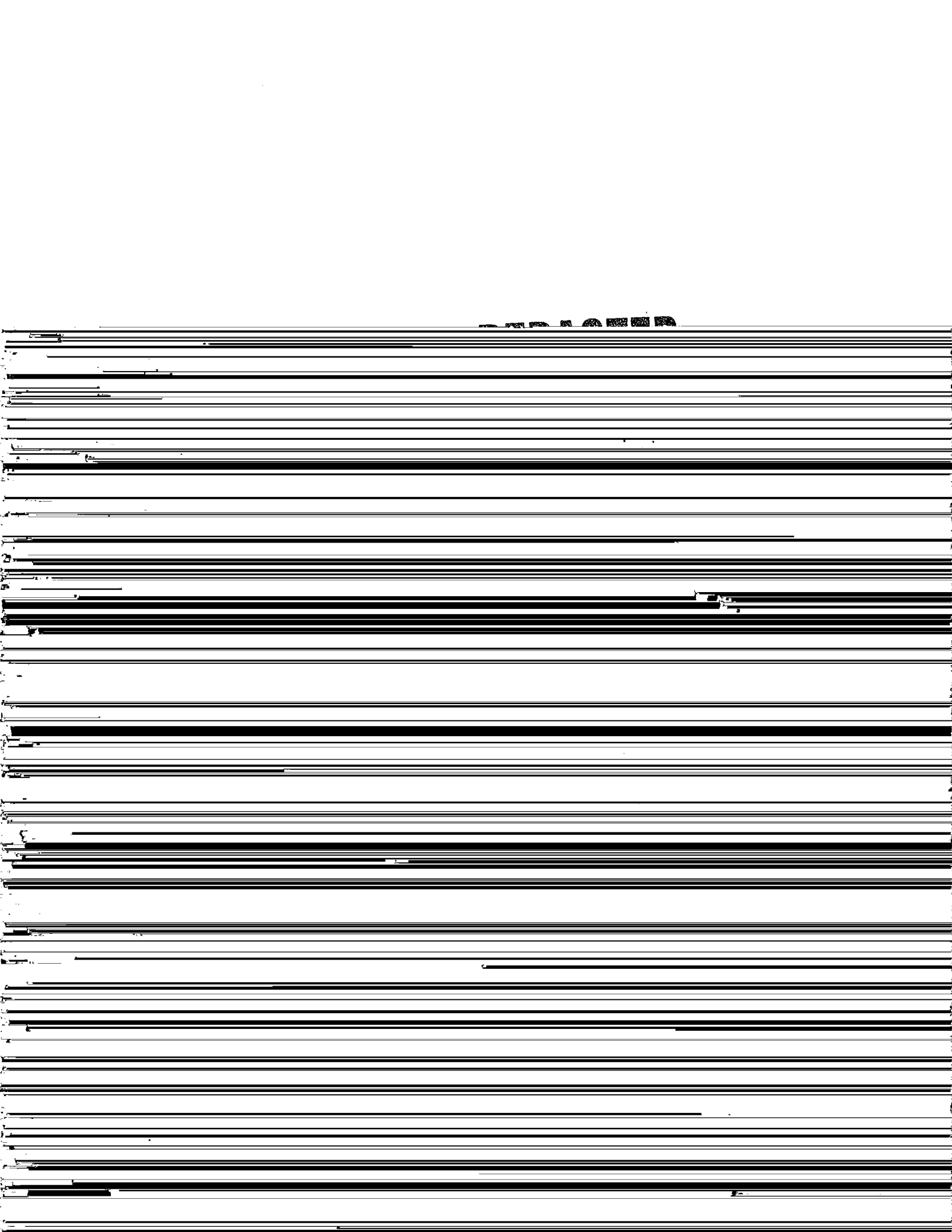
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56. Public disclosure of the licensing and royalty agreements would cause a clearly defined, serious injury to Respondents.

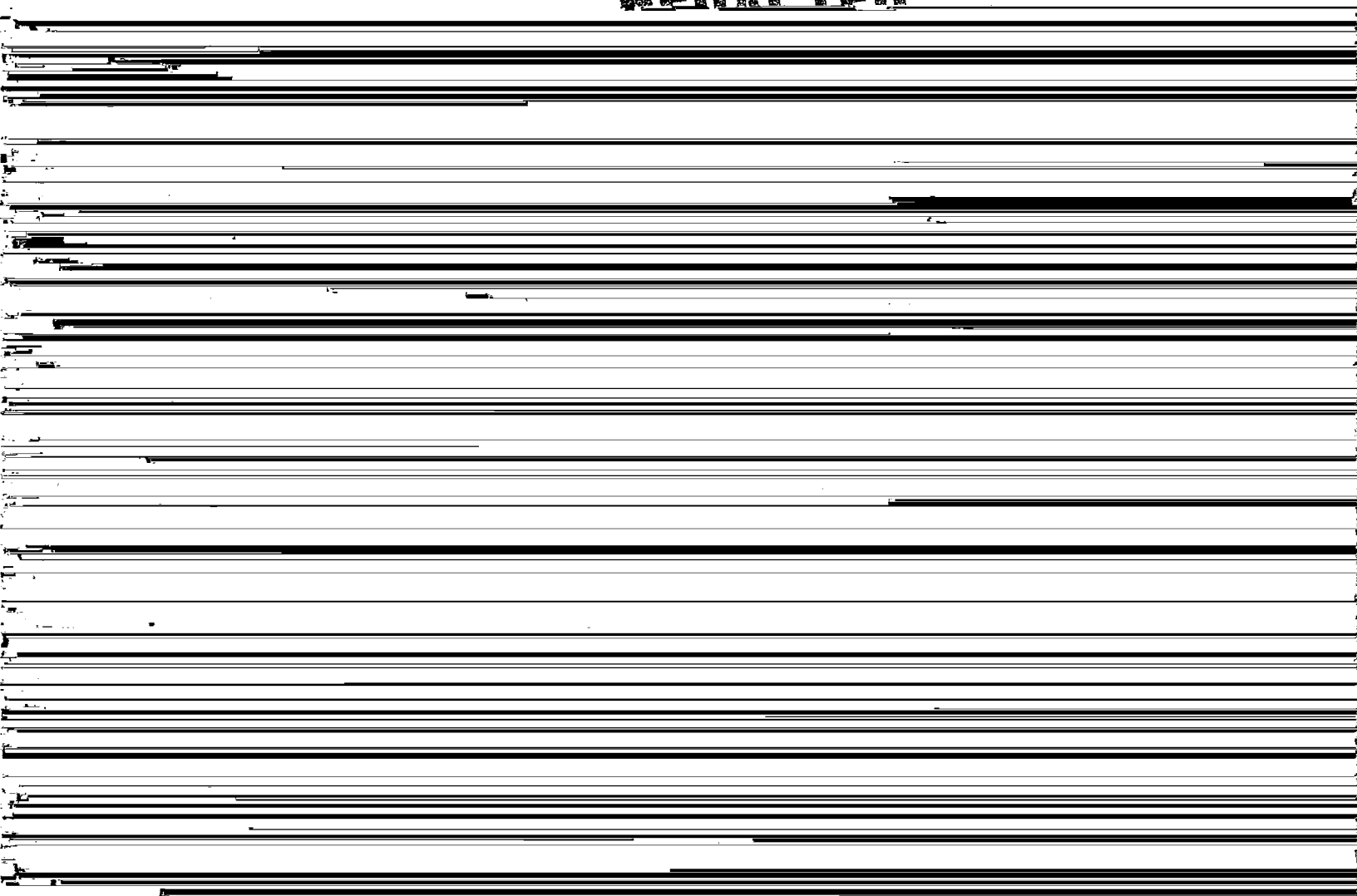
63. The details of the advertising dissemination schedules are only known to those

knowledge. For example, Respondents' corporate officers and supervisors in the advertising and

most sales—something captured by implication in Respondent’s advertising schedules but not otherwise available anywhere else. Those exhibits meeting this threshold are:

[

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1. The following information and system requirements have access to such information

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

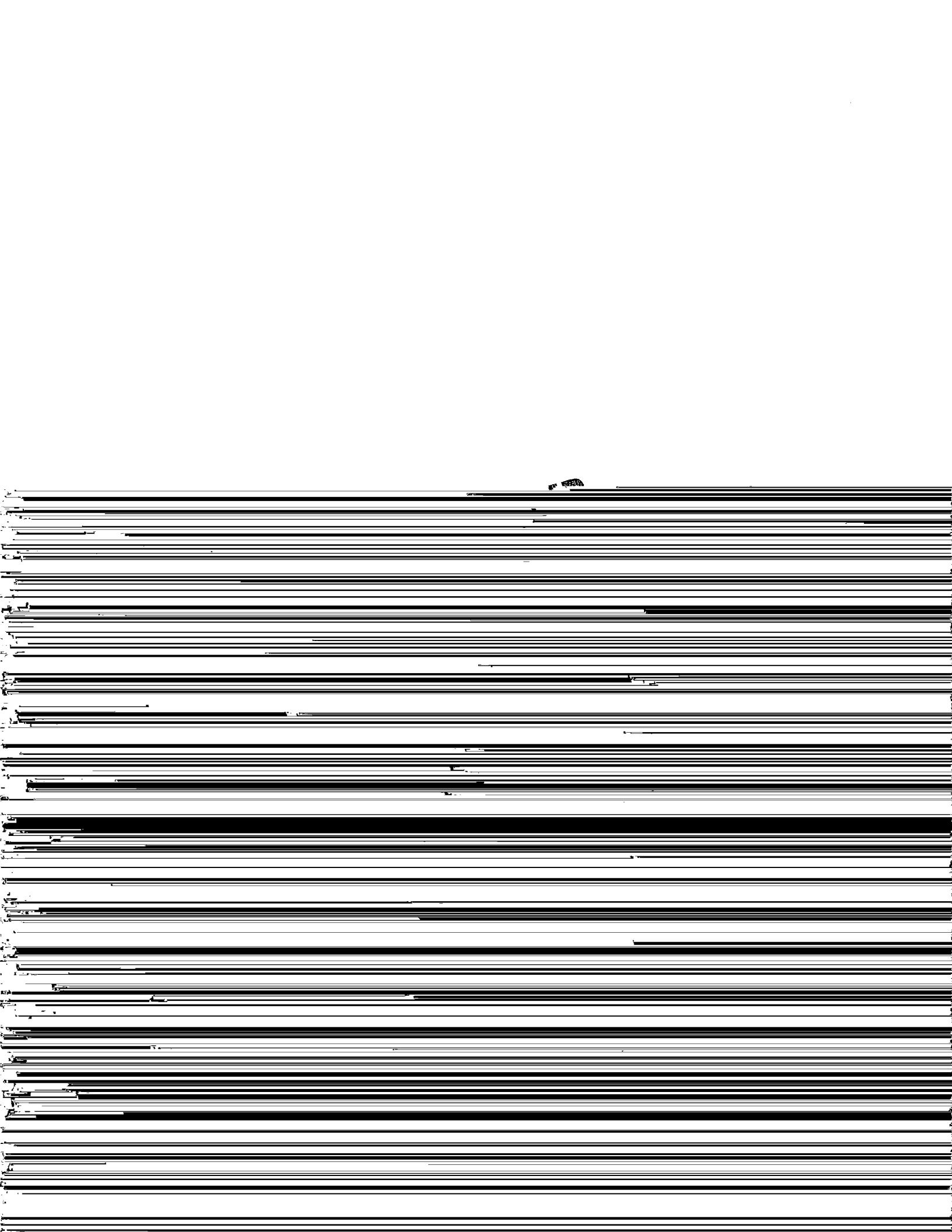
[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

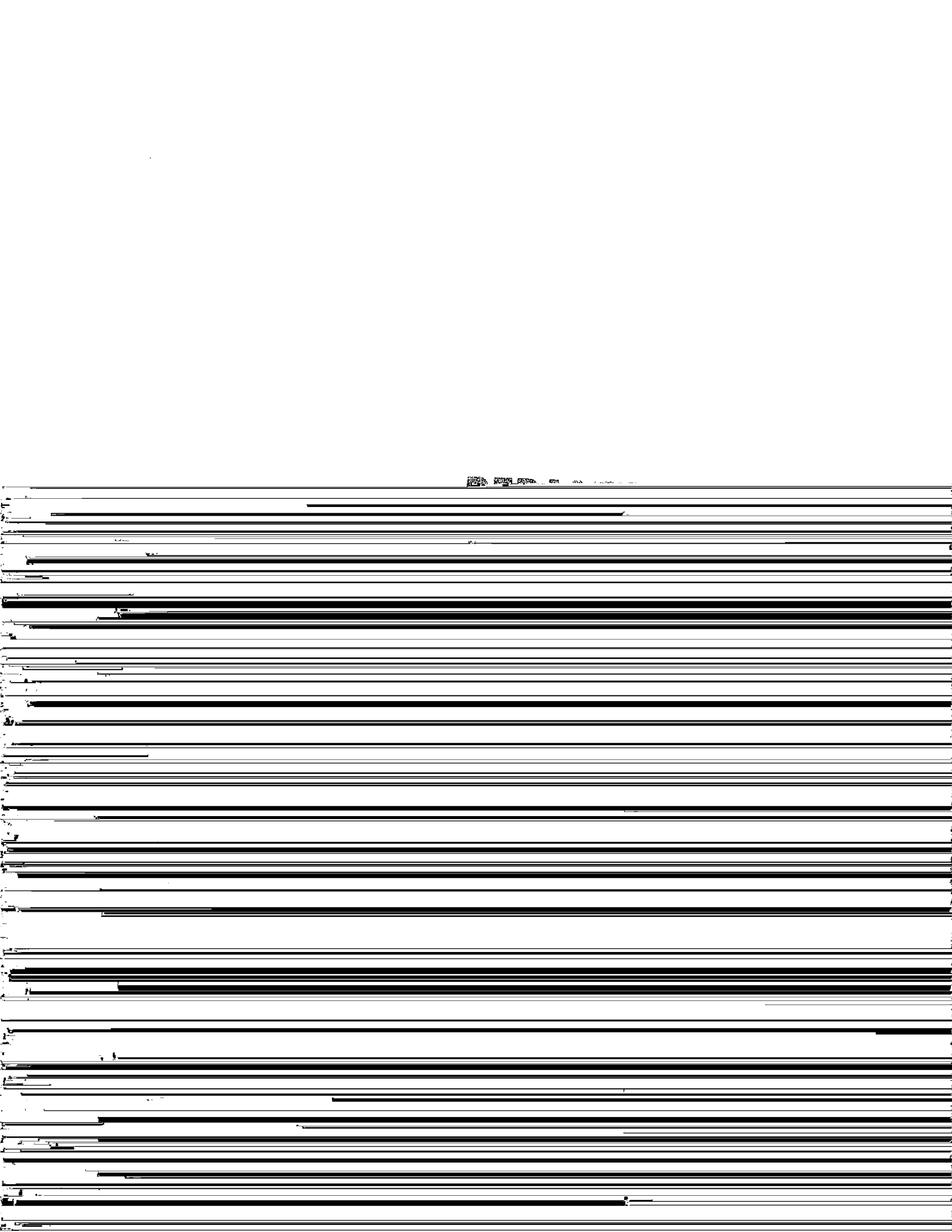


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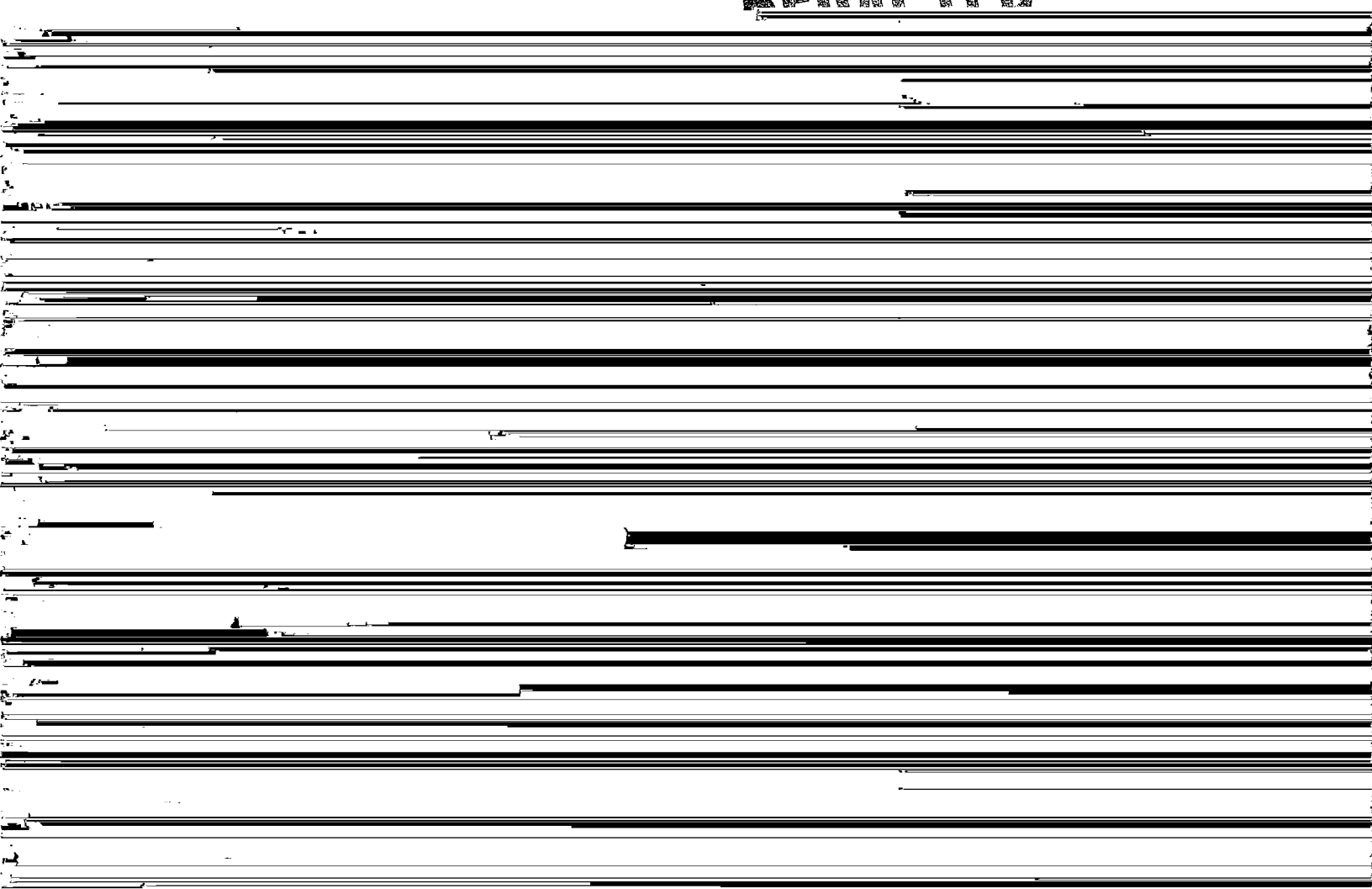
DEPARTMENT OF THE ARMY



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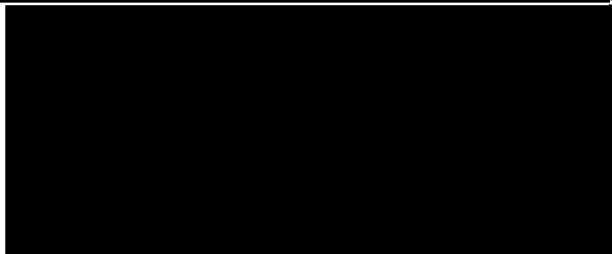
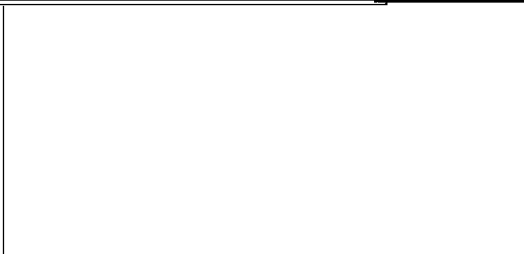
ACTED

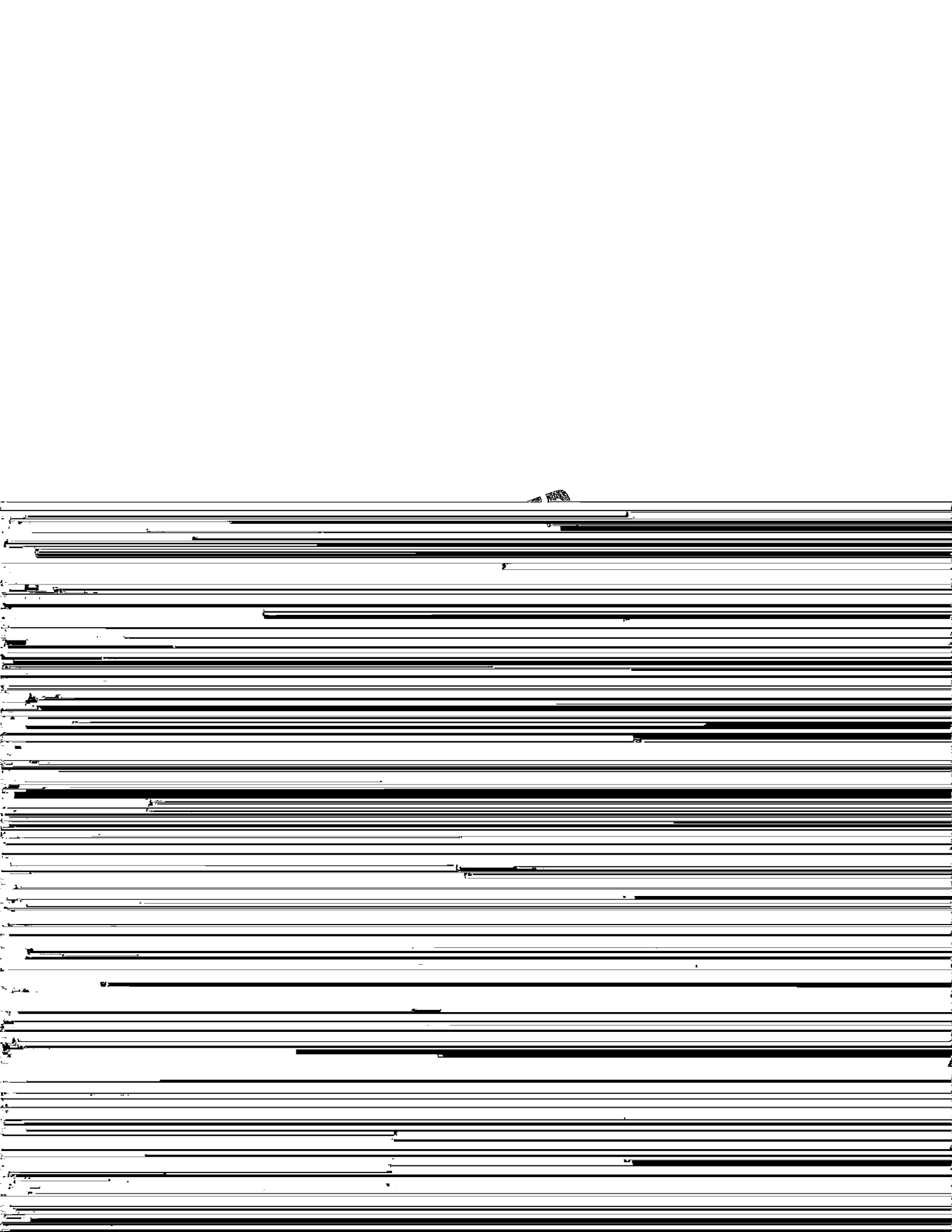
NOTED

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NOTED

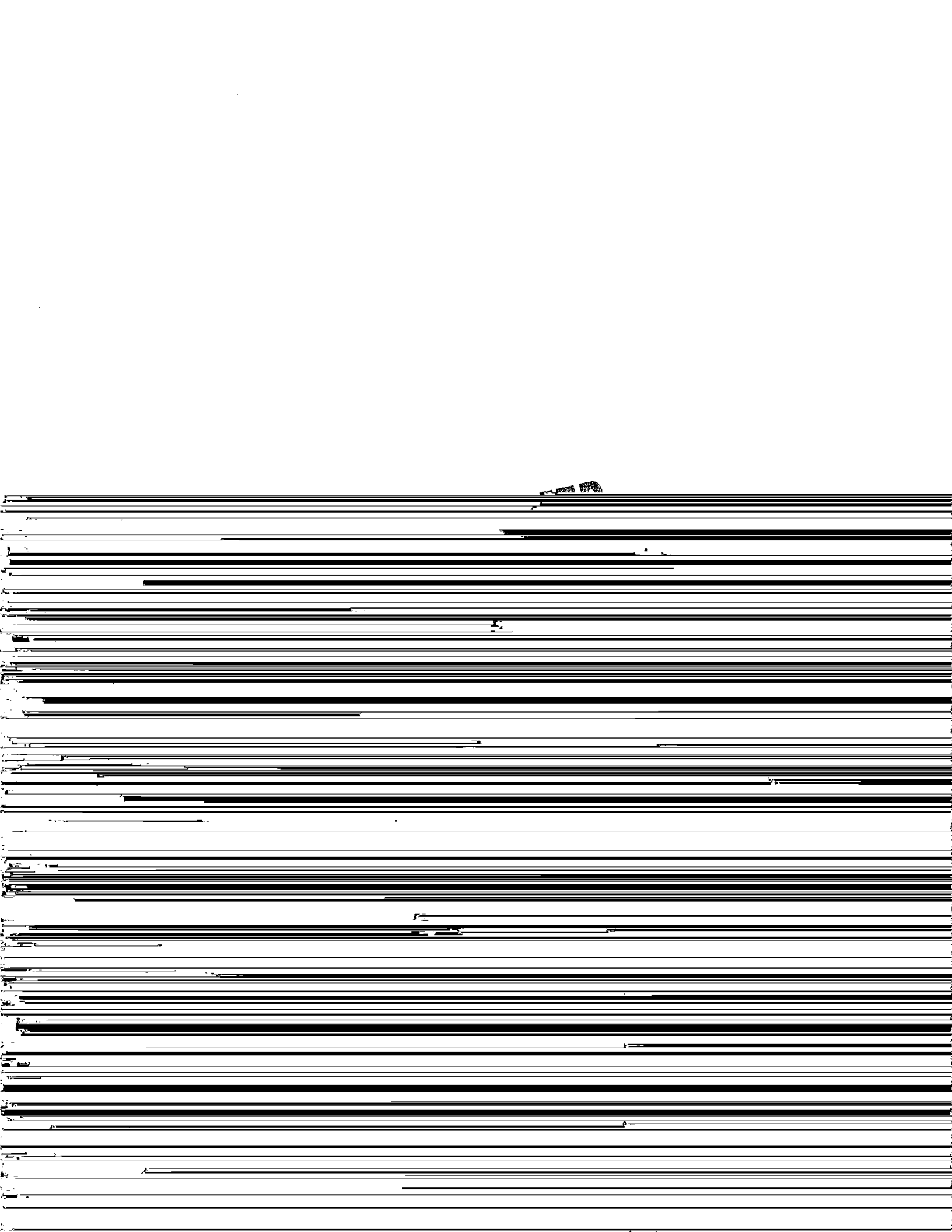
REDACTED



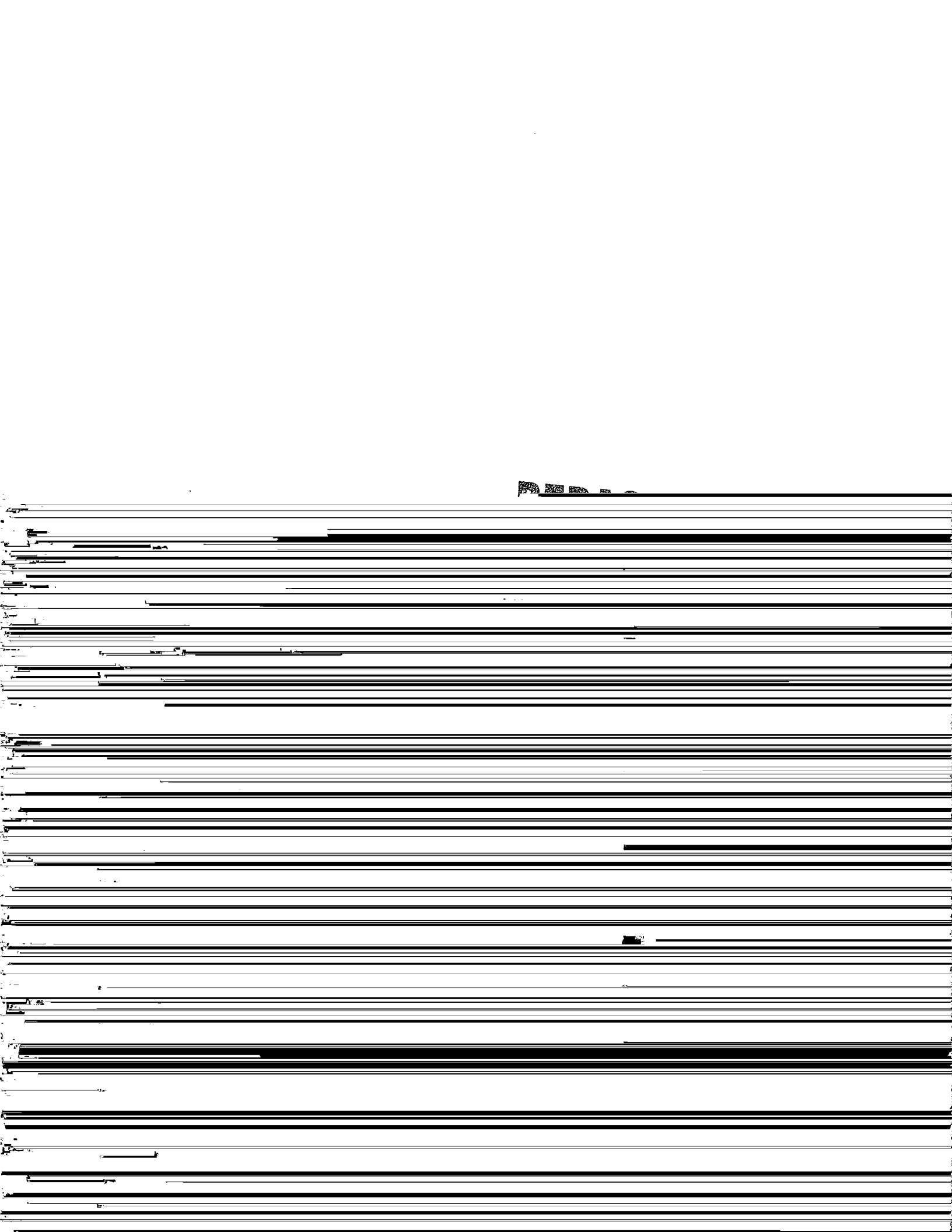


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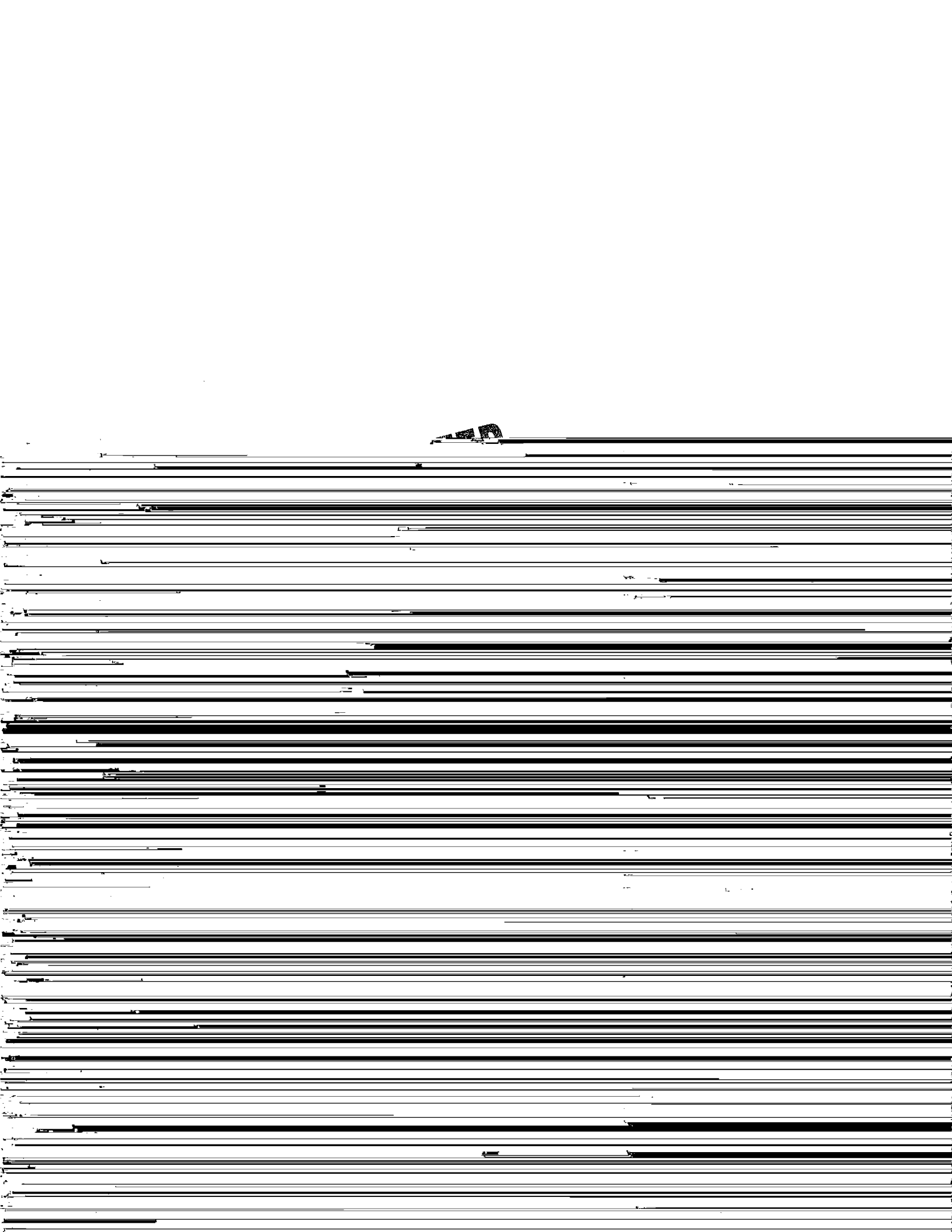




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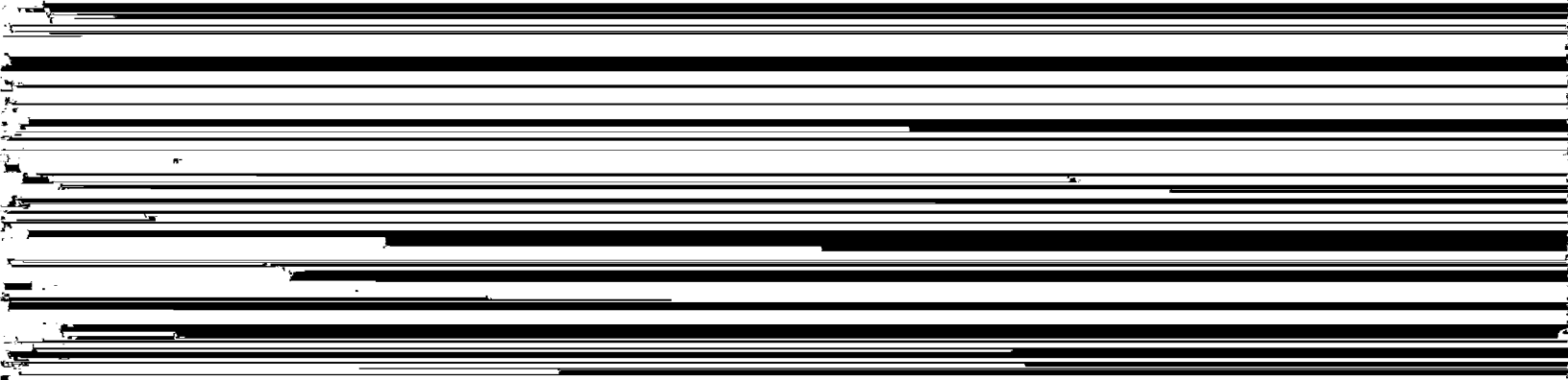
XXXXXXXXXX



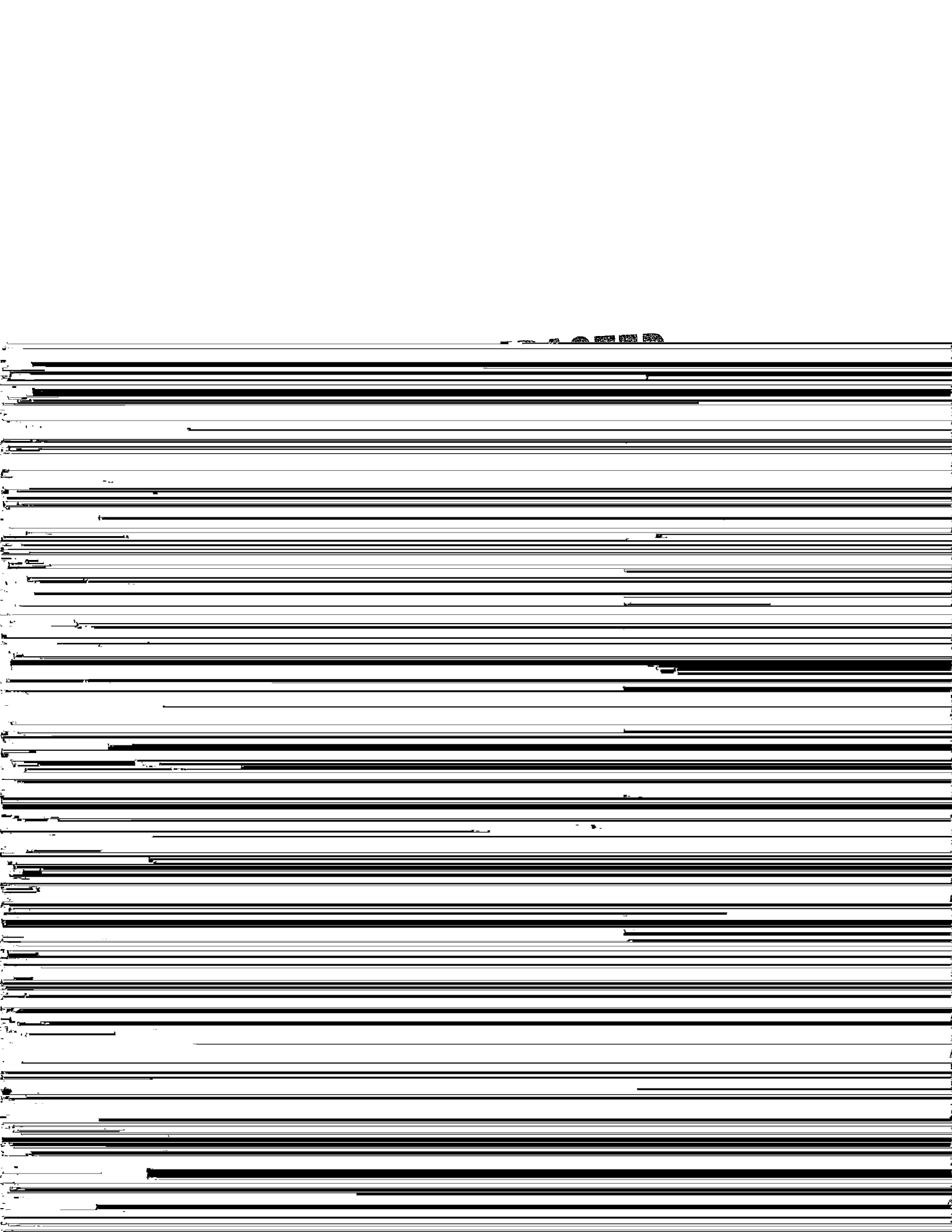


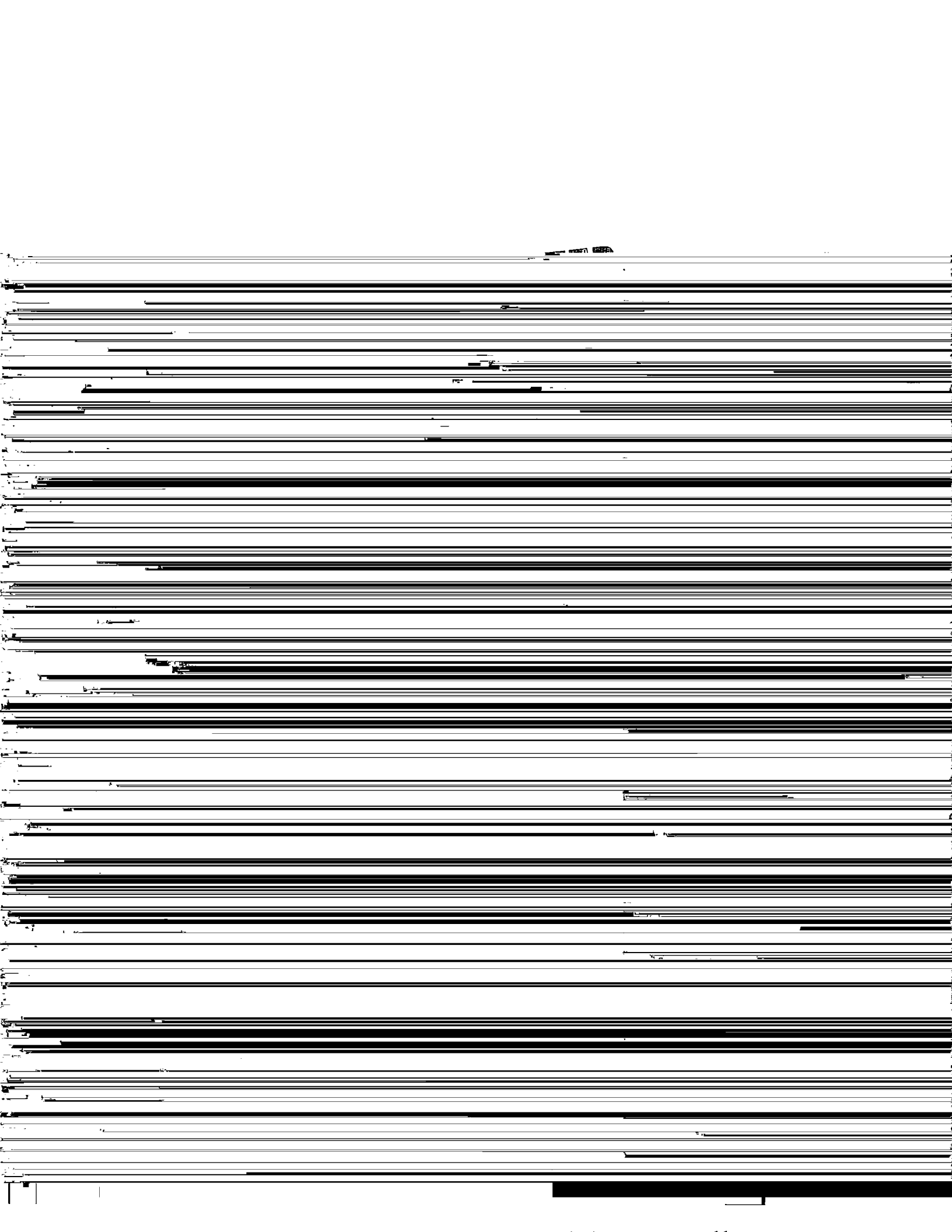
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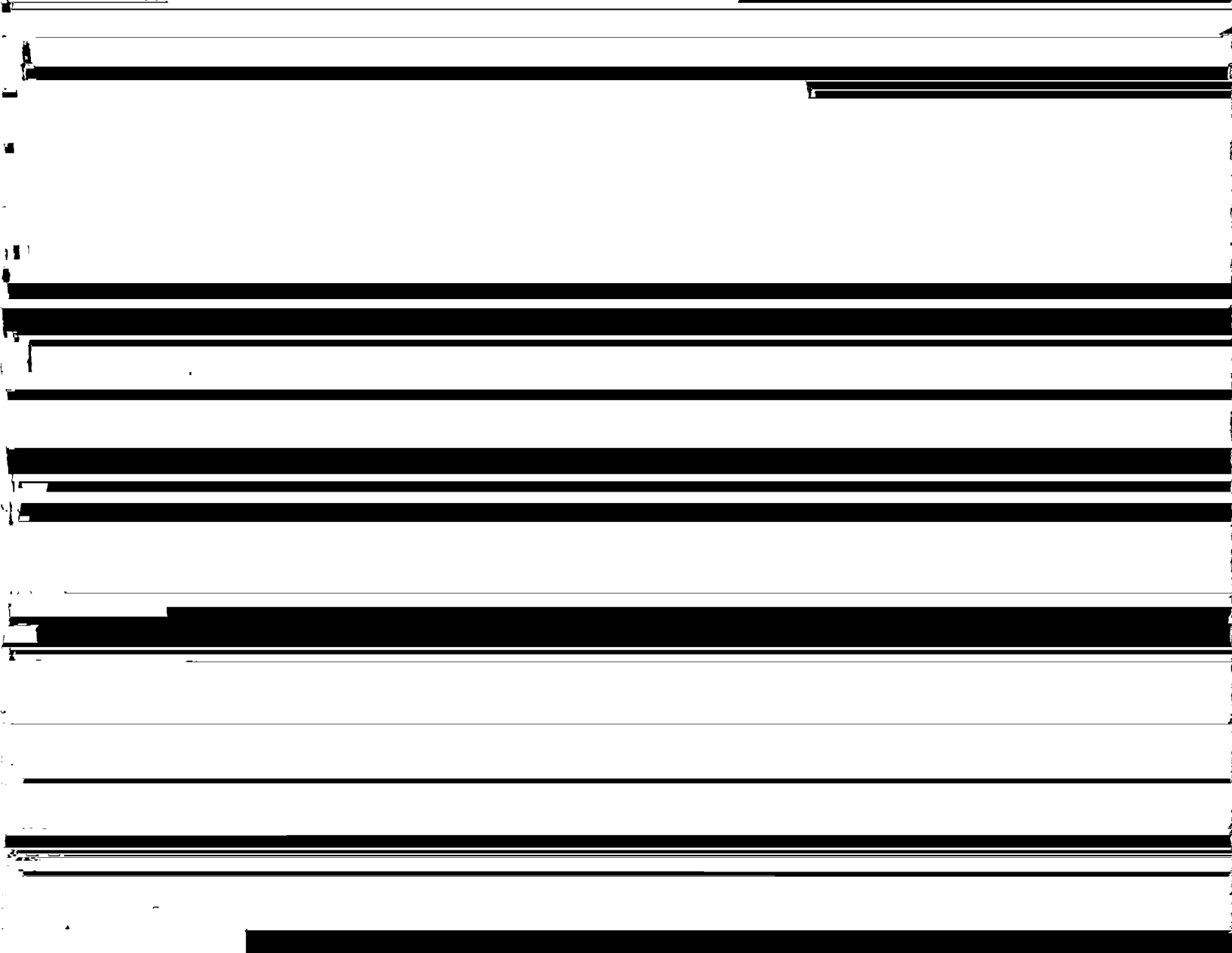




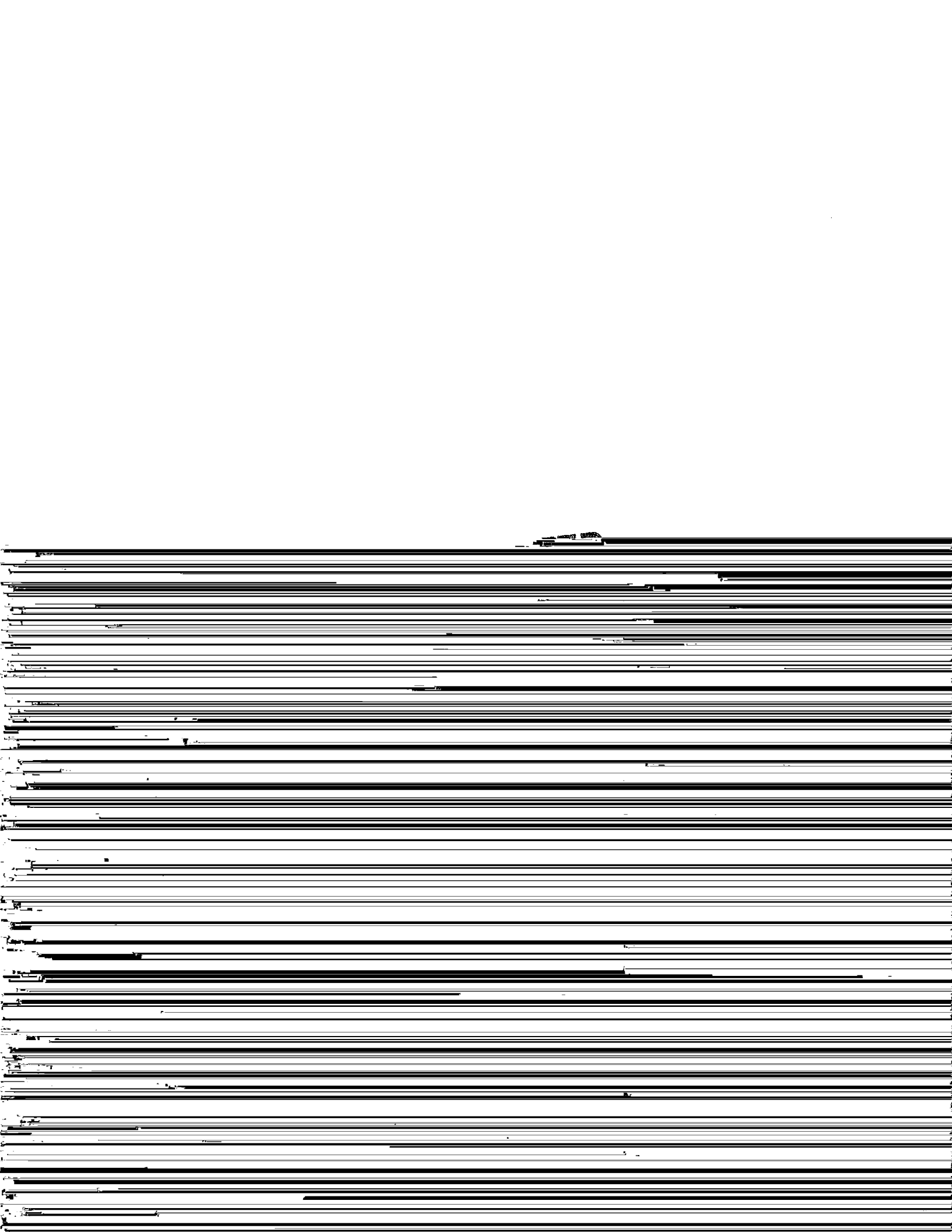


80. Disclosing the e-mails and letters exchanged during the pretrial investigation pertaining to settlement discussions would permit competitors and the public access to privileged and confidential communications made by Respondents' attorneys on its behalf. Competitors would also benefit from the time, effort, and money that Respondents put into resolving this case.

81. Some of the proposed consent orders contain language that prevents the agreements from being part of the public record in an adjudicatory proceeding unless and until the Commission accepts the agreement. All attempts at settlement to date have failed and the Commission has not accepted any settlement agreements involving any of Respondents in this



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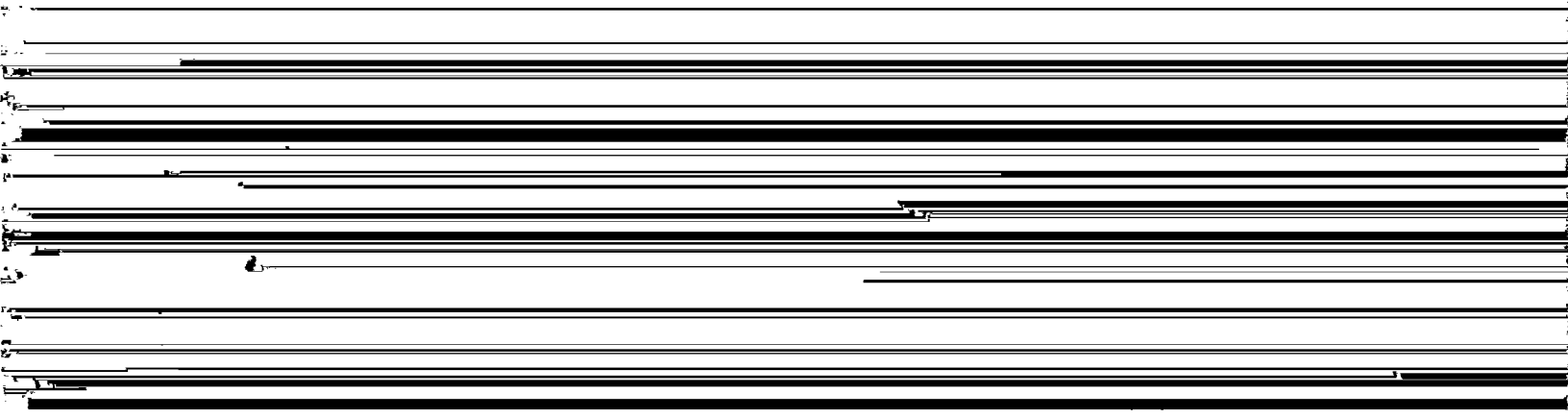
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84. Public disclosure of the communications between Respondents and the FTC

could cause a clearly defined, serious injury to Respondents

Attachment 12: Multiple Category Documents

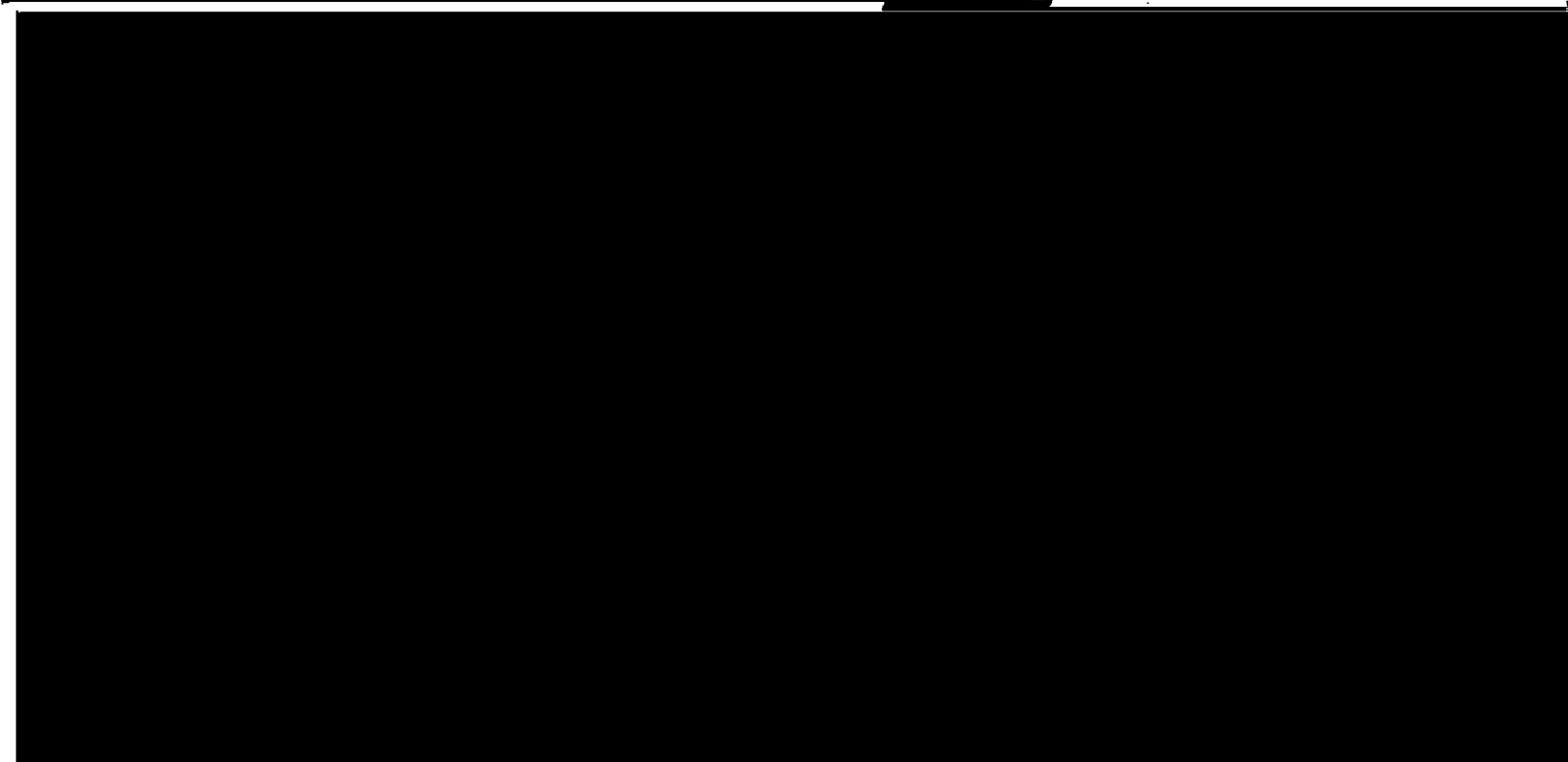
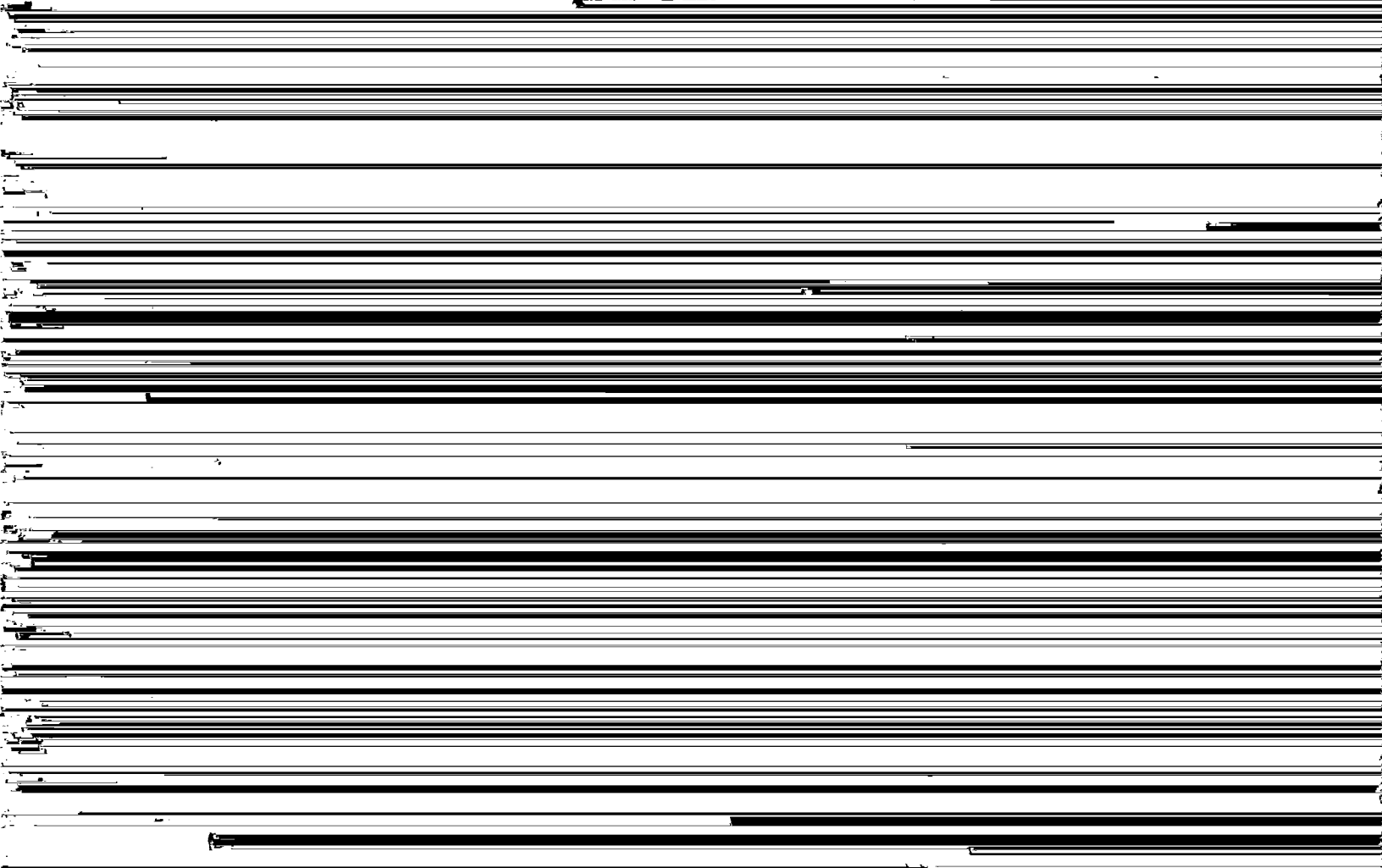
85. The following exhibits are entitled to in camera treatment because the criteria for the

criteria for more than one of the categories described in detail above:

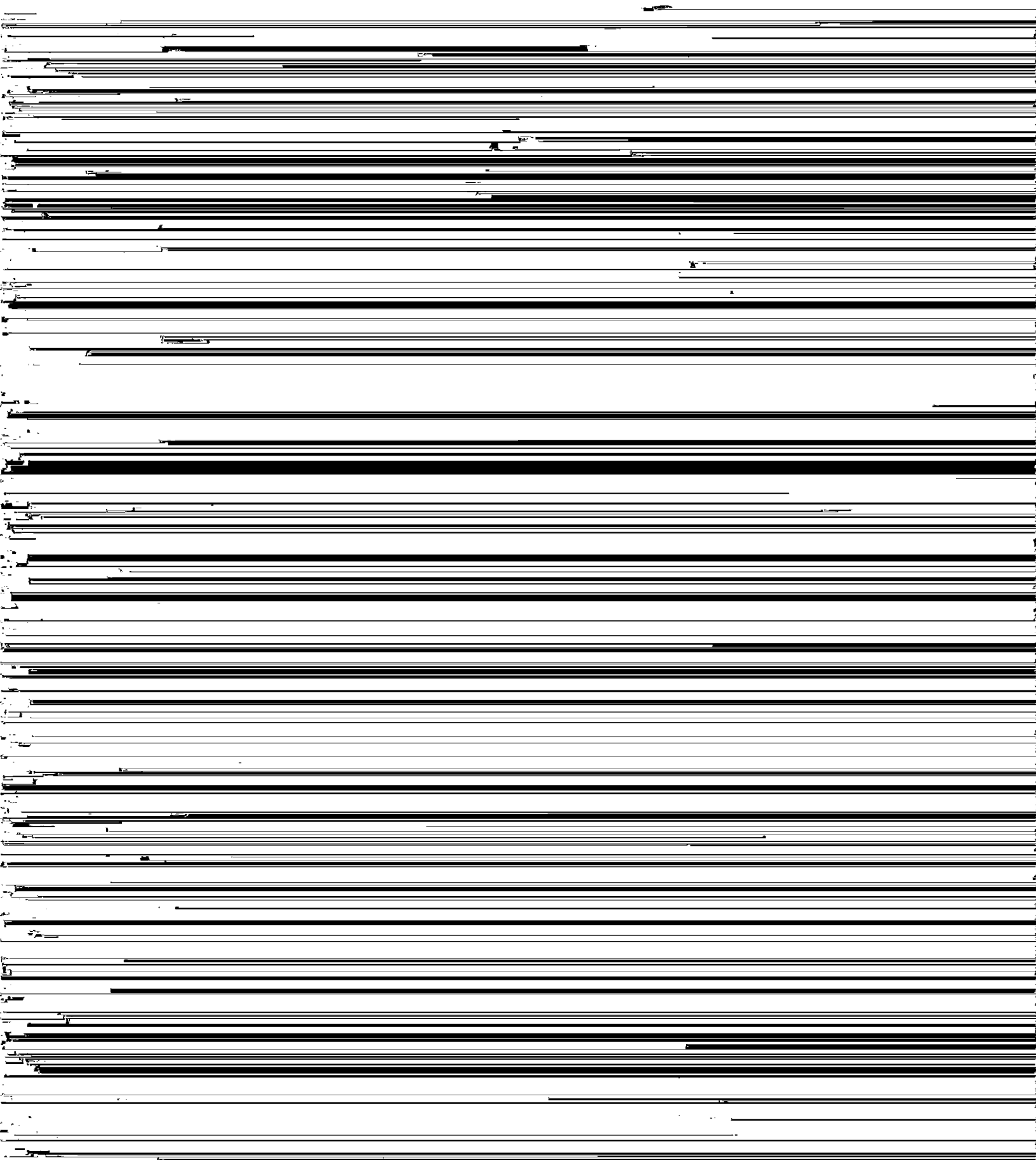
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[REDACTED]

[The main body of the document is almost entirely obscured by dense, horizontal black lines, likely representing redaction or severe scanning artifacts.]



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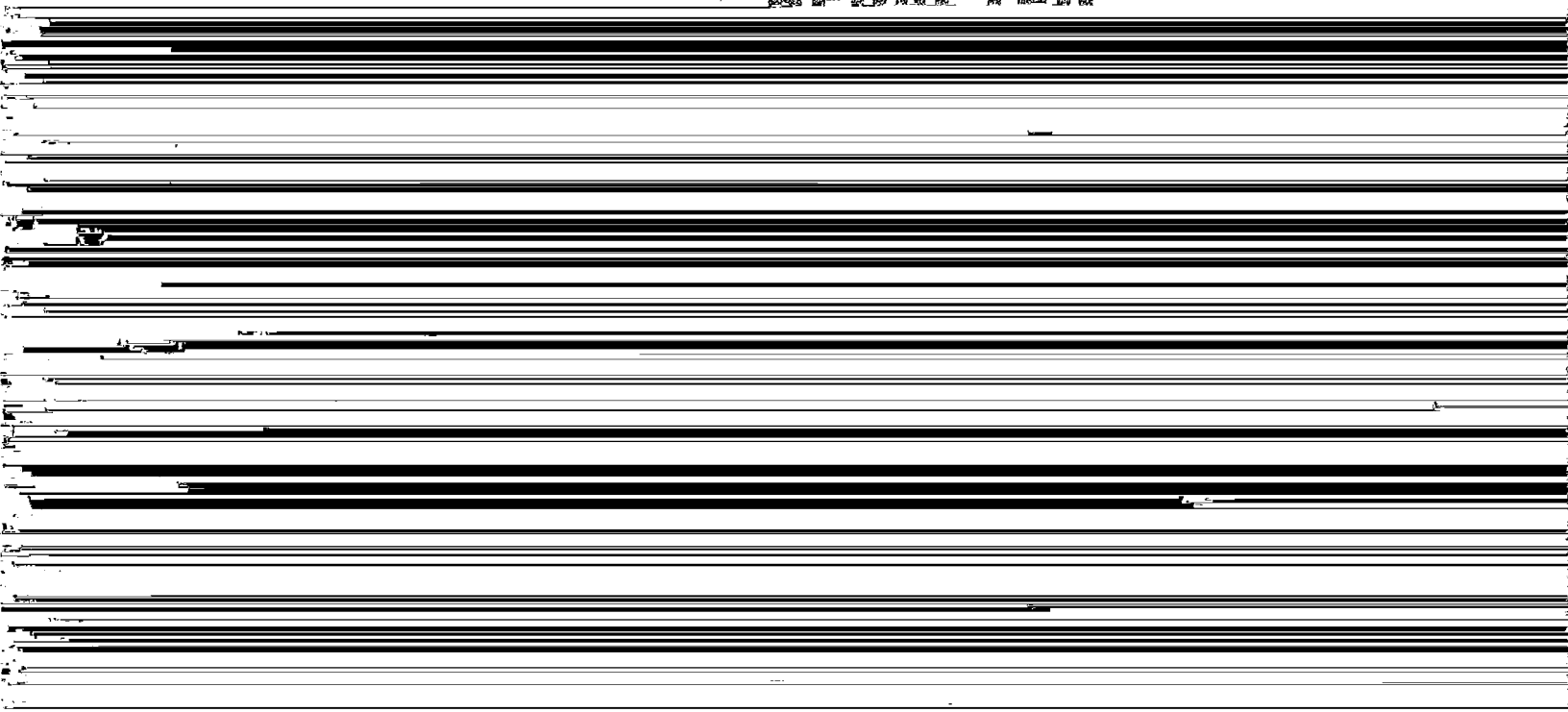
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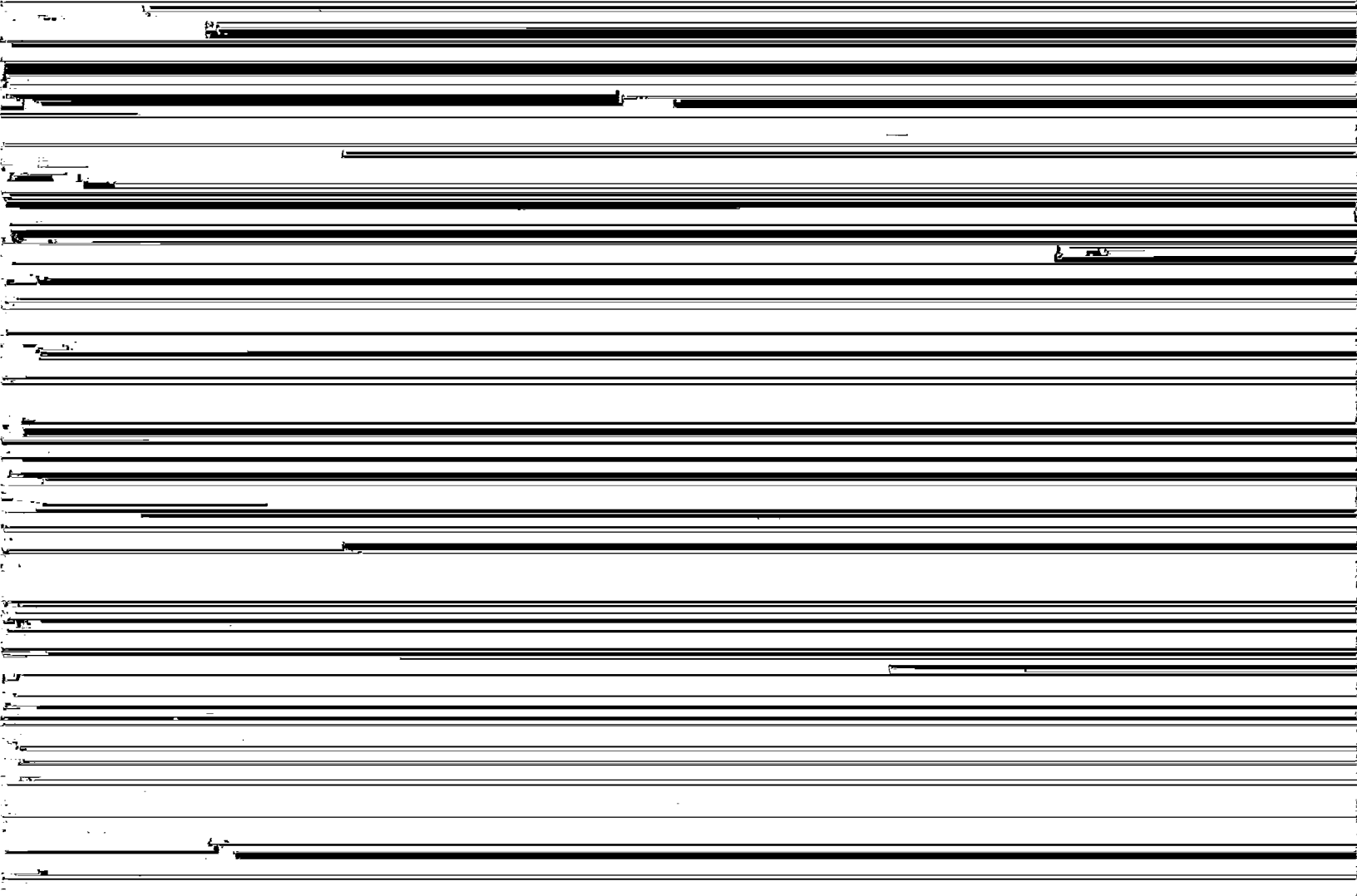
PRINTED



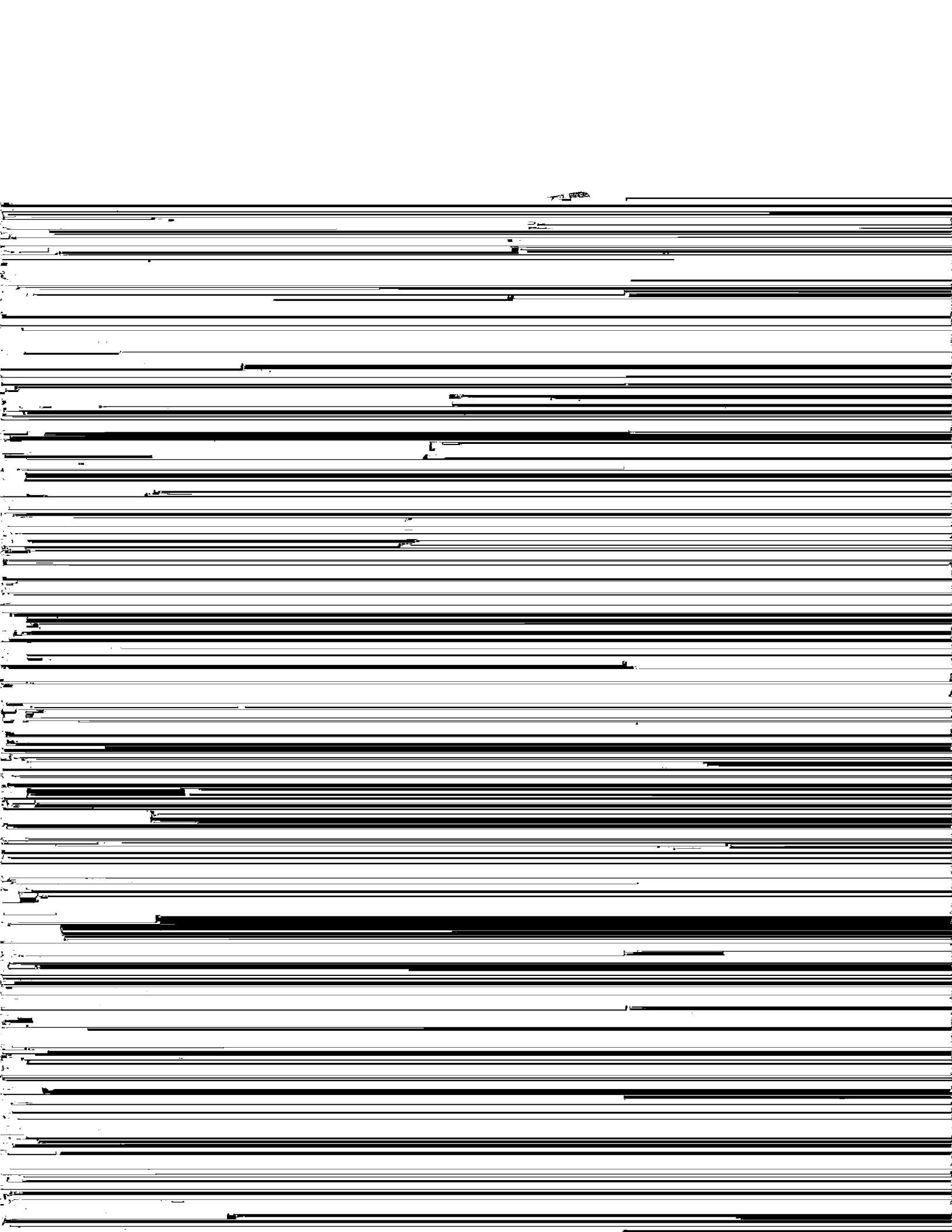
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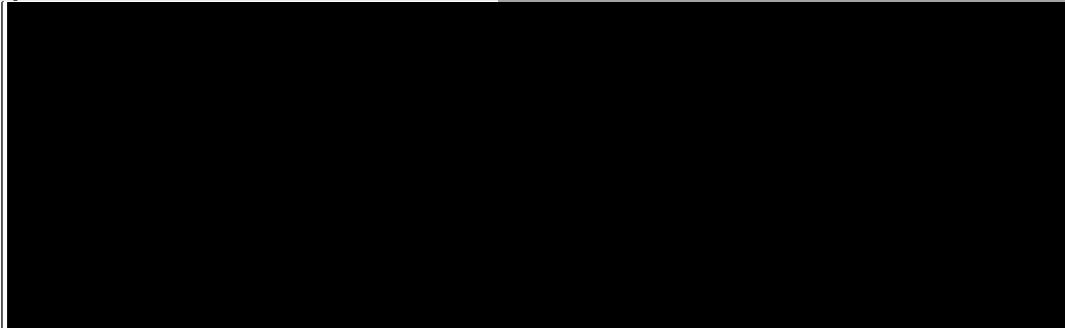
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2020

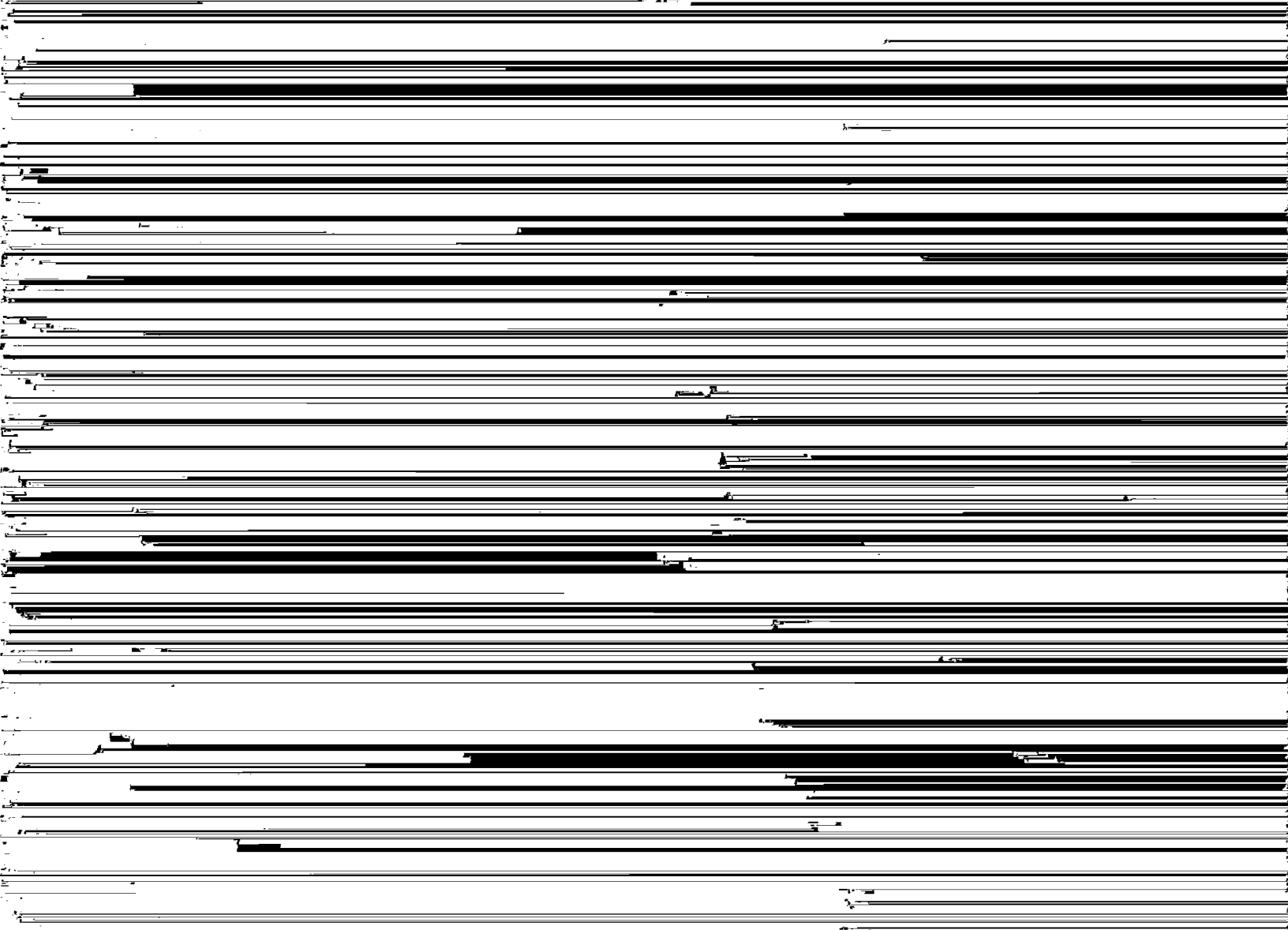
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DATED this 3rd day of February, 2006.

Carla Fobbs
Carla Fobbs

Vertical text on the right edge of the page, likely a scanning artifact or page number.

Public-Composite 3

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX-166		R0000332	3
CX-167		R0007483	3
CX-168		R0009931	3
		R0029913	
		R0035713	

Public-Composite 3

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
RX-592		R00124364 THRU R0015583	3
RX-708		NC11313 THRU NC11333	3

Public-Composite 4

Exhibit No.	Title or Description	Bates No.	Categories
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
------------	------------	------------	------------

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
------------	------------	------------	------------

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
------------	------------	------------	------------

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
------------	------------	------------	------------

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
------------	------------	------------	------------

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
------------	------------	------------	------------

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
------------	------------	------------	------------

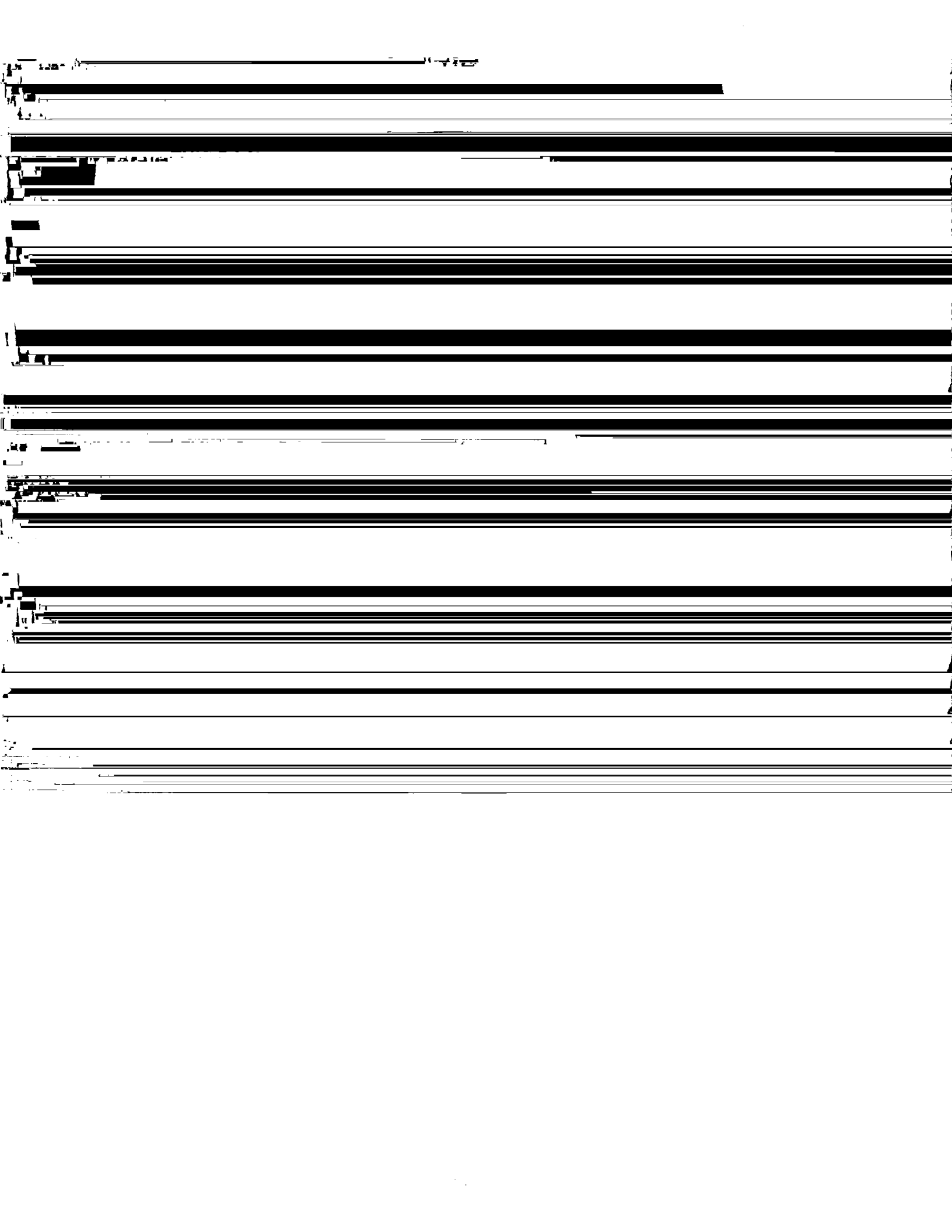
Public-Composite 5

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX-025			5
CX-026			5
RX-173		R0040774	5

Public-Composite 7

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX-152		COINFO- 000001/94- COINFO 000001-107 (BASIC RESEARCH BATES: 8000001- 8000014)	7
CX-191		4000001- 4000008	7

REDACTED



Public-Composite 9

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX-302		R0041166- R0041166-G	9
CX-313		JF35	9
CX-314			9
RX-386		R0044178	9

FRAGMENTED

Public-Composite 10

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX-448		5004217-	
CX-027		5004307	10
CX-117		5032872-	
		5032962	10
CX-203		R0034370 (ALSO MARKED AS R0033185)	10
CX-209		R0033070	10
CX-210		R0035122	10
CX-211		R0035116	10

REDACTED

R0035138-

Public-Composite 10

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX-383		R0044519	10
CX-451			10
CX-455			10

Public-Composite 10

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX-810		SDT00186- SDT00188	10
CX-818		SDT00389	10
CX-935		5041713- 5041747	10
CX-953			10
RX-120		FC000062 THRU FC000081	10

REDACTED

Public-Composite 11

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX-831			11

CX-870

FTC4446-
4452, 4454

11

Public-Composite 12

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
CX-077			12
CX-089			12
CX-116			12
CX-134			12
CX-148			12
CX-149			12
CX-163			12
CX-182			12
CX-183			12
CX-196			12
CX-197			12
CX-198			12
CX-254			12
CY 255			12

Public-Composite 12

<u>Exhibit No.</u>	<u>Title or Description</u>	<u>Bates No.</u>	<u>Categories</u>
RX-047		N/A	12
RX-048		N/A	12
RX-051		N/A	12
RX-052		N/A	12
RX-054		N/A	12

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

BASIC RESEARCH, L.L.C.,
A.G. WATERHOUSE, L.L.C.,
KLEIN-BECKER USA, L.L.C.,
NUTRASPORT, L.L.C.

)
)
)
) **PUBLIC RECORD**
)
)

SOVAGE DERMALOGIC LABORATORIES, L.L.C.,
BAN, L.L.C.,
DENNIS GAY,
DANIEL B. MOWREY,
MITCHELL K. FRIEDLANDER

) **DOCKET NO. 9318**
)
)
)
)
)

DECLARATION OF GINA GAY

1. My name is Gina Gay. I am over twenty-one years of age, of sound mind, and fully competent and able to testify to the matters set forth herein. I have personal knowledge of

the facts set forth herein.

2. I was employed as a Marketing Director in the Marketing Department of Basic

3. This Declaration is submitted in support of Respondents' Motion for *In Camera*

~~Treatment of Trial Exhibits~~

In the course of my work for the Corporate Respondents, I have become familiar

with the business plan of the Corporate Respondents, especially as it relates to the marketing of Respondents' products.

CONFIDENTIAL

12. Making these Substantiation Compilations available to such competitors would be severely damaging to the Corporate Respondents' legitimate business interests because it would

[

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