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**FEDERAL BUREAU OF INVESTIGATION**

Precedence: ROUTINE

Date: 02/21/2007

To: Inspection

Attn: Internal Investigations  
Section, Room 3041

General Counsel

Attn: National Security Law Branch  
Room 7947

From: [Redacted]

Contact: SSA [Redacted]

Approved By: [Redacted]

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Drafted By: [Redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending) - 2214  
(S) 278 [Redacted] C136372 (Pending)  
(S) [Redacted] (Pending)

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Title: (U) REPORT OF A POTENTIAL IOB MATTER;

Synopsis: (U) OGC-mandated report of potential IOB violation  
previously resolved during June 19-30, 2006 OIG audit.

(U) ~~(S)~~ Derived From: ~~G-3~~  
Declassify On: ~~X1~~

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(S) ~~(U)~~ [Redacted]

Reference: (U) 278-HQ-C1229736 Serial 2570

(S) [Redacted]  
(S) [Redacted]  
(S) [Redacted]

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Administrative: (U) This specific issue was addressed during  
[Redacted] June 19-30, 2006 OIG audit, and determined not to  
be an IOB violation. Reference OGC's 04/26/2006 IOB Guide, which  
specifically states under the heading "What is an IOB violation?"  
on page 2, Paragraph 8: "Improper NSL Collection: If we receive  
information pursuant to an NSL that was not sought by the NSL,  
due to an error by the recipient, the improper collection should  
be reported as a potential IOB [Redacted]"

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[Redacted]

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(U) To: Inspection From: [redacted]  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2007

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Enclosure(s): (U) For all recipients: 278-HQ-C1229736 Serial 2570, dated 11/16/2006; and OGC's 04/26/2006 IOB Guide with reference to OGC's 4/7/2006 Email regarding associated account information contained in NSL results.

Details: (U) The purpose of this EC is to report a previously-cleared potential IOB matter involving a National Security Letter requested by SA [redacted] FBI [redacted] as well as to satisfy the new requirements set forth by referenced serial 2570, dated 11/16/2006, regarding the revised procedures for the submission of potential IOB reports.

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~~(S)~~ 1. Identification of the substantive investigation in which the potential questionable activity occurred, including the names of relevant personnel including the case agent and his supervisor:

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(S) CaseID# [redacted]

Case Agent: SA [redacted]  
Supervisor at the time of the then-suspected IOB: SSA [redacted] (retired 07/31/2006)

Supervisor at the time of the June 19-30, 2006 OIG audit which determined that no IOB violation had occurred: SSA [redacted]

[redacted]

(U) 2. Identification of the subject's status as an USPer or non-USPer: Non-USPer

(U) 3. A complete and thorough explanation of the potential error believed to have been committed and all relevant facts. The explanation should include:

(U) 3(a). A statement regarding when the potential error occurred (including, in instances of delayed reporting an explanation for the delayed reporting): Referenced [redacted] dated 07/13/2004, and referenced [redacted] dated 07/26/2004. [redacted] advised of the results of the initial NSL (referenced [redacted] dated 05/17/2004). Per the OGC guidance at the time (OGC's 04/26/2006 IOB Guide, based on OGC's 4/7/2006 Email), [redacted] determined that the NSL results, which contained a second associated telephone number, did not constitute an IOB violation, thus reporting of a potential IOB was not initiated.

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To: Inspection From: [REDACTED]  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2007

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(U) 3(b). A statement concerning the controlling law, regulation or NSIG provision that pertains to the potential violation: Under the authority of EO 12333, dated December 4, 1981, and pursuant to Title 18, U.S.C., §2709 (Section 201 of the ECPA of 1986) (as amended), a communications carrier was directed to provide to the FBI the name, address, length of service, and local and long distance toll billing records associated with a telephone number.

(U) 3(c). A complete statement of the status of the investigation or matter including, if applicable, when it was initiated, when it expired, when it was renewed, and whether it currently is opened or closed: During an OIG audit of FBI [REDACTED] NSLs from June 19-30, 2006, the results of the subject NSL were called into question by the IG as a potential IOB violation, since a second telephone number was identified by the communications carrier in their reply. The Case Agent was interviewed by the IG, during which it was agreed that the second telephone number was associated with the subject telephone number, which at the time, per OGC's 04/26/2006 IOB Guide, based on OGC's 4/7/2006 Email, was allowed, as it was a situation where the recipient took a broad reading of the NSL and provided information on associated accounts as is commonly done in the criminal area. Per the OGC Email dated 4/7/2006, "There are no problems with that." Current OGC guidance on IOB violations (see referenced serial 2570, dated 11/16/2006), supercedes the April 2006 OGC guidance, and does not specifically comment on associated accounts. However, this issue was addressed and cleared of any potential IOB violations by OIG auditors back in June 2006. This report is being submitted with the understanding that this matter was previously resolved by OIG auditors in June 2006 using the OGC guidance in effect at the time, thus the status of this matter is considered to have been resolved in June 2006 and is considered by [REDACTED] to be closed.

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(U) To: Inspection From: [REDACTED]  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2007

LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT IIS, DC

(U) For information.

Set Lead 2: (Info)

GENERAL COUNSEL

AT NSLB, DC

(U) For information.

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CC: 1 - CDC [REDACTED]  
1 - SA [REDACTED]  
1 - SSA [REDACTED]

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NSL VIO-24180

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**FEDERAL BUREAU OF INVESTIGATION**

Precedence: ROUTINE

Date: 02/22/2007

To: General Counsel

Attn: SSA [redacted]  
National Security Law Branch  
Counterintelligence Law Unit

From: [redacted]

Contact: [redacted]

Approved By: [redacted]

Drafted By: [redacted]

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(U) Case ID #: (S) 278-HQ-C1229736-VIO  
(U) 62F-[redacted]97317

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Title: (U) Potential IOBs

(U) Synopsis: (S) Response to NSLB review/document request made by OGC on 02/20/2007.

(U) (S) Derived From : G-3  
Declassify On: X1

(U) Enclosure(s): (S) Documents responsive to NSLB request.

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(U) Details: (S) The enclosed documentation is provided to the NSLB as requested in the 02/20/2007 e-mail to the [redacted] Division.

(S) A. [redacted]

(U) (S) 1. [redacted]

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(S) (S) 2. Potential IOB error: The National Security Letter was issued without approval [redacted]

(U) (S) 3. Description of potential IOB error: [redacted] Division submitted an EG [redacted] to Counterterrorism, ITOS I, on 10/21/2003 requesting Headquarters approval for a six month extension

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To: General Counsel From: [redacted]  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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(S) B [redacted]

(S) 1. [redacted]

(U) ~~(S)~~ 2. Potential IOB error: A National Security Letter requesting FCRA consumer full credit report data was issued in a counterintelligence case.

(U) ~~(S)~~ 3. Description of potential IOB error: In this case, two National Security Letters were issued for financial data, one to [redacted] and the other to [redacted]. The National Security Letter sites Title 15, USC, section 1681v. This is the legal provision allowing for full credit reports in terrorism matters. In counterintelligence matters, under Title 15, USC 1681u(a), agents are entitled to credit listings (information pertaining to financial institutions, addresses of those institutions, places of employments, etc.), but not to a full credit report.

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(S) C [redacted]

(S) 1. [redacted]

(U) ~~(S)~~ 2. Potential IOB error: The National Security Letter contained a typographical error.

(U) ~~(S)~~ 3. Description of potential IOB error: An electronic communication dated 04/11/2005 requested the issuance of three FCRA National Security Letters pursuant to Title 15, USC, section 1681u(a)

To: General Counsel From: [redacted]  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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and 1681u(b). The National Security Letters, also dated 04/11/2005, contained the language that, pursuant to Executive Order 12333, dated 12/04/1981, and Title 15, USC, section 1681v. There was a typographical error on the part of the drafter of the National Security Letter who, instead of properly drafting 1681u(a) and 1681u(b), drafted 1681v on all three National Security Letters.

(U)

~~(S)~~ 4. The Office of General Counsel guidance per EC dated 11/16/2006 provides that a typographical error of this type must be reported as a potential IOB violation.

(S) D. [redacted]

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(S) 1 [redacted]

(U)

~~(S)~~ 2. Potential IOB error: The information obtained was not relevant to an authorized National Security investigation as it was a third party error.

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~~(S)~~ 3. Description of potential IOB error: The specific request was to [redacted] for subscriber information from 01/01/2003 to the present. A review of the response from [redacted] revealed that there were toll records (11/22/2002 - 04/15/2003) mixed in with the package of subscriber results provided to the [redacted] Division of the FBI. The amount of material received from [redacted] was voluminous. As such, the case agent did not catch this as it appears to be an over-collection. None of this information was indexed and no follow up investigation was conducted on the toll record information.

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(S) E. [redacted]

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(S) 1 [redacted]

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~~(S)~~ 2. Potential IOB error: Carrier error in providing agent with information not authorized by National Security Letter.

(U)

~~(S)~~ 3. Description of potential IOB error: In accordance with an approved ECPA National Security Letter dated 09/26/2005, [redacted] returned to the [redacted] Division records for e-mail

(S)

[redacted] for January, 2005 to the present. Additionally, records were also provided to the [redacted] Division from 10/12/2004 to 12/31/2005. This error was on the part of [redacted] and not

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To: General Counsel From:   
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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the case agent. The National Security Letter specifically requested records for the e-mail account from 01/01/2005 to the present.

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NSL VIO-24193



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To: General Counsel From: [REDACTED]  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

(U)

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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NSL VIO-24194

February 24, 2006

BY COURIER

Mr. Stephen Friedman  
Chairman  
Intelligence Oversight Board  
New Executive Office Building  
Washington, D.C.

Dear Mr. Friedman:

(U)

Enclosed for your information is a self-explanatory memorandum, entitled "Intelligence Oversight Board (IOB) Matter, Indianapolis Field Office, IOB Matter 2006- (U)

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(U)

This LHM sets forth details of investigative activity which the FBI has determined was conducted contrary to The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection and/or laws, Executive Orders, or Presidential Directives which govern FBI foreign counterintelligence and international terrorism investigations.

~~(U)~~

Enclosure

- 1 - Ms. Thomas
- 1 - Mr. Eirinberg
- 1 - 278-HQ-C1229736-VIO-1176
- 1 - Inspection Division (IOB 2006-)
- 1 - Mr. Hulon

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UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

~~Derived from: G-3  
Declassify on: X-1~~

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- Dep. Dir. \_\_\_\_\_
- Chief of Staff \_\_\_\_\_
- Off. of Gen. Counsel \_\_\_\_\_
- Asst. Dir.:
- Crim. Inv. \_\_\_\_\_
- CJIS \_\_\_\_\_
- Finance \_\_\_\_\_
- Info. Res. \_\_\_\_\_
- Insp. \_\_\_\_\_
- Lab. \_\_\_\_\_
- National Sec. \_\_\_\_\_
- Personnel \_\_\_\_\_
- Training \_\_\_\_\_
- Off. of EEOA \_\_\_\_\_
- Off. of Public & Cong. Affs. \_\_\_\_\_

NSL VIO-24198

FBI0000153

Mr. Stephen Friedman

Should you or any member of your staff require additional information concerning this matter, an oral briefing will be arranged for you at your convenience. (U)

Sincerely,

Julie F. Thomas  
Deputy General Counsel

- 1 - The Honorable Alberto R. Gonzales  
Attorney General  
U.S. Department of Justice  
Room 5111
- 1 - Mr. James A. Baker  
Counsel, Office of Intelligence Policy and Review  
U.S. Department of Justice  
Room 6150

**APPROVED:**

Crim. Inv.	_____	Inspection	_____	Training	_____
CJIS	_____	Laboratory	_____	Off. of EEO	_____
Finance	_____	National Sec.	_____	Affairs	_____
Director	_____	Gen. Counsel	_____	Off. of Public &	_____
Deputy Director	_____	Info. Res.	_____	Cong. Affs.	_____
		Personnel	_____		

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NSL VIO-24199

August 30, 2006  
BY COURIER

Mr. Stephen Friedman  
Chairman  
Intelligence Oversight Board  
Room 50209  
New Executive Office Building  
725 17<sup>th</sup> Street, Northwest  
Washington, D.C.

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2006- (U)

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The memorandum sets forth details of investigative activity which the FBI has determined was conducted contrary to the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations and/or laws, Executive Orders, or Presidential Directives which govern FBI foreign counterintelligence and international terrorism investigations. This matter has also been referred to our Internal Investigations Section, Inspection Division, for a determination of whether any administrative action is warranted.  
(U)

Enclosure

1 - 278-HQ-C1229736-VIO - 1607

UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

~~Derived From: G-3~~  
~~Declassify On: 25X1~~

- Dep. Dir. \_\_\_\_\_
- Chief of \_\_\_\_\_
- Staff \_\_\_\_\_
- Off. of Gen. \_\_\_\_\_
- Counsel \_\_\_\_\_
- Asst. Dir.: \_\_\_\_\_
- Crim. Inv. \_\_\_\_\_
- CJIS \_\_\_\_\_
- Finance \_\_\_\_\_
- Info. Res. \_\_\_\_\_
- Insp. \_\_\_\_\_
- Lab. \_\_\_\_\_
- National Sec. \_\_\_\_\_
- Personnel \_\_\_\_\_
- Training \_\_\_\_\_
- Off. of EEOA \_\_\_\_\_
- Off. of Public \_\_\_\_\_
- & Cong. Affs. \_\_\_\_\_
- Director's Office \_\_\_\_\_

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NSL VIO-24202

FBI/DOJ

FBI0000105

MAIL ROOM

110-10-061-17#3

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Mr. Stephen Friedman

Should you or any member of your staff require additional information concerning this matter, an oral briefing will be arranged for you at your convenience. (U)

Sincerely,

Julie F. Thomas  
Deputy General Counsel

- 1 - The Honorable Alberto R. Gonzales  
Attorney General  
U.S. Department of Justice  
Room 5111
  
- 1 - Mr. James Baker  
Counsel, Office of Intelligence Policy and Review  
U.S. Department of Justice  
Room 6150

**APPROVED:**   Crim. Inv. \_\_\_\_\_   Inspection \_\_\_\_\_   Training \_\_\_\_\_  
                  CJIS \_\_\_\_\_   Laboratory \_\_\_\_\_   Off. of EEO \_\_\_\_\_  
                  Finance \_\_\_\_\_   National Sec. \_\_\_\_\_   Affairs \_\_\_\_\_  
Director \_\_\_\_\_   Gen. Counsel \_\_\_\_\_   OPR \_\_\_\_\_   Off. of Public & \_\_\_\_\_  
Deputy Director \_\_\_\_\_   Info. Res. \_\_\_\_\_   Personnel \_\_\_\_\_   Cong. Affs. \_\_\_\_\_

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NSL VIO-24203

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DATE: 08-21-2007  
CLASSIFIED BY 65179 DMH/KSR/cb  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-21-2032

**IOBs FY 2004**

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

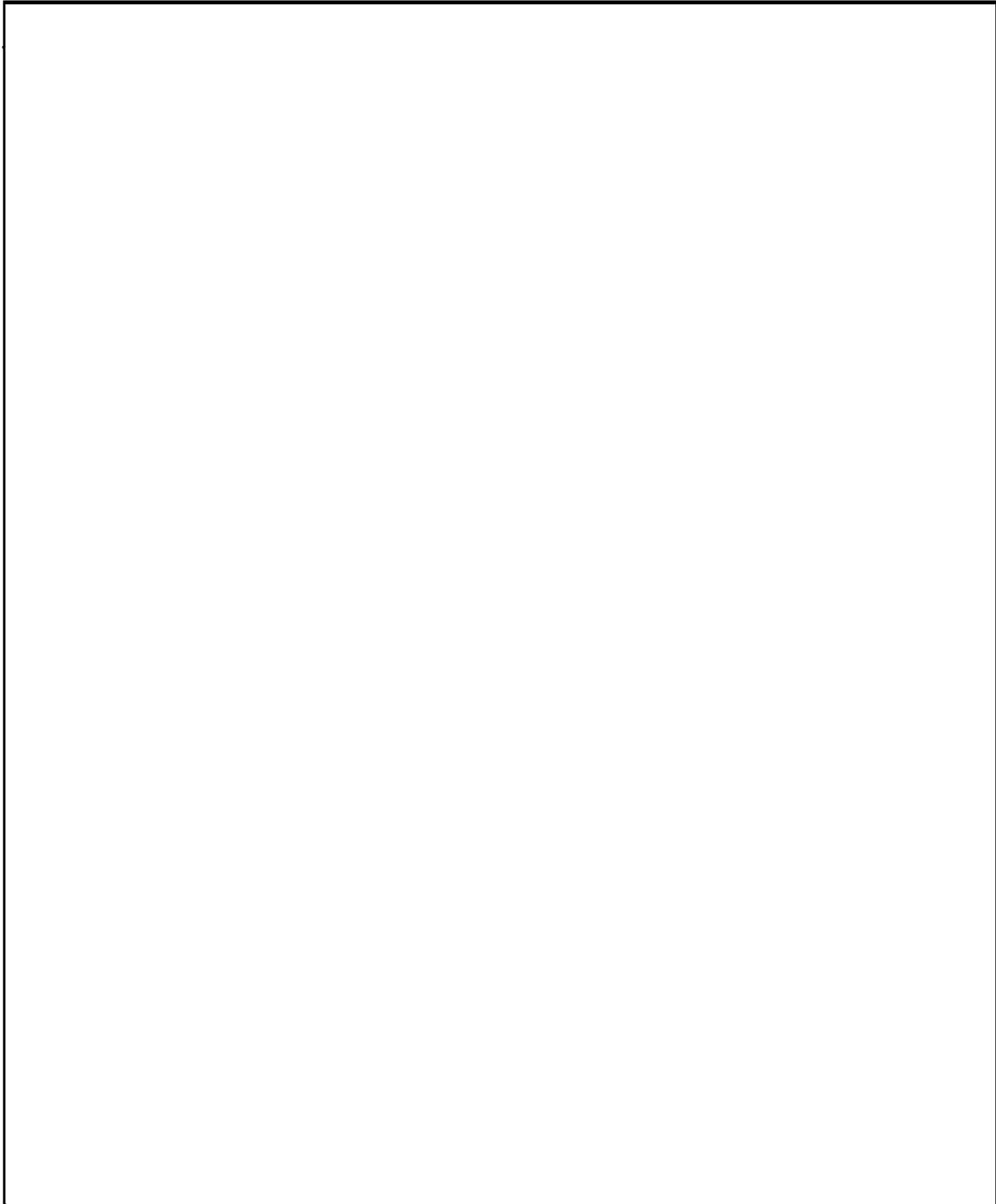


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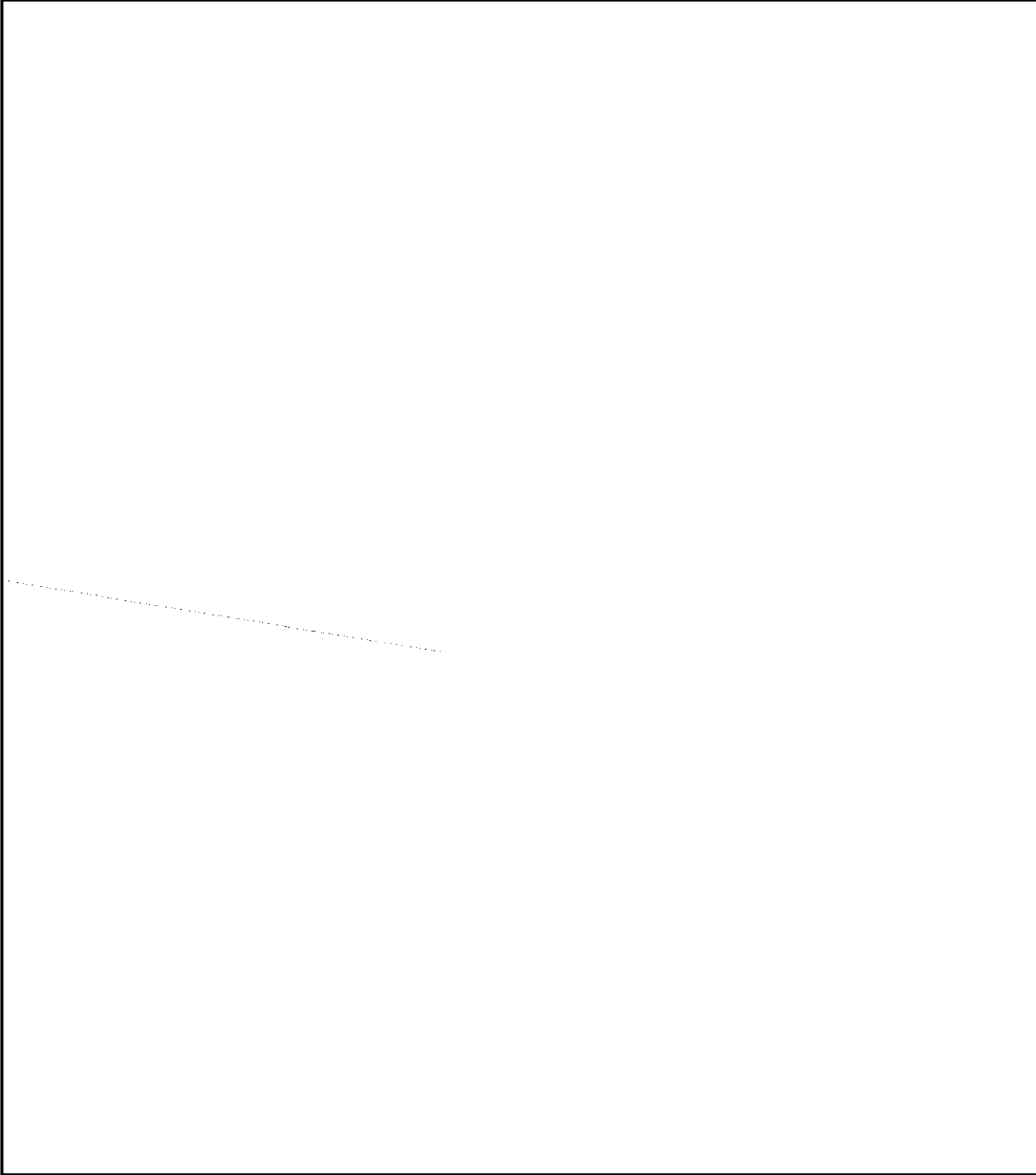


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IOBs FY 2004



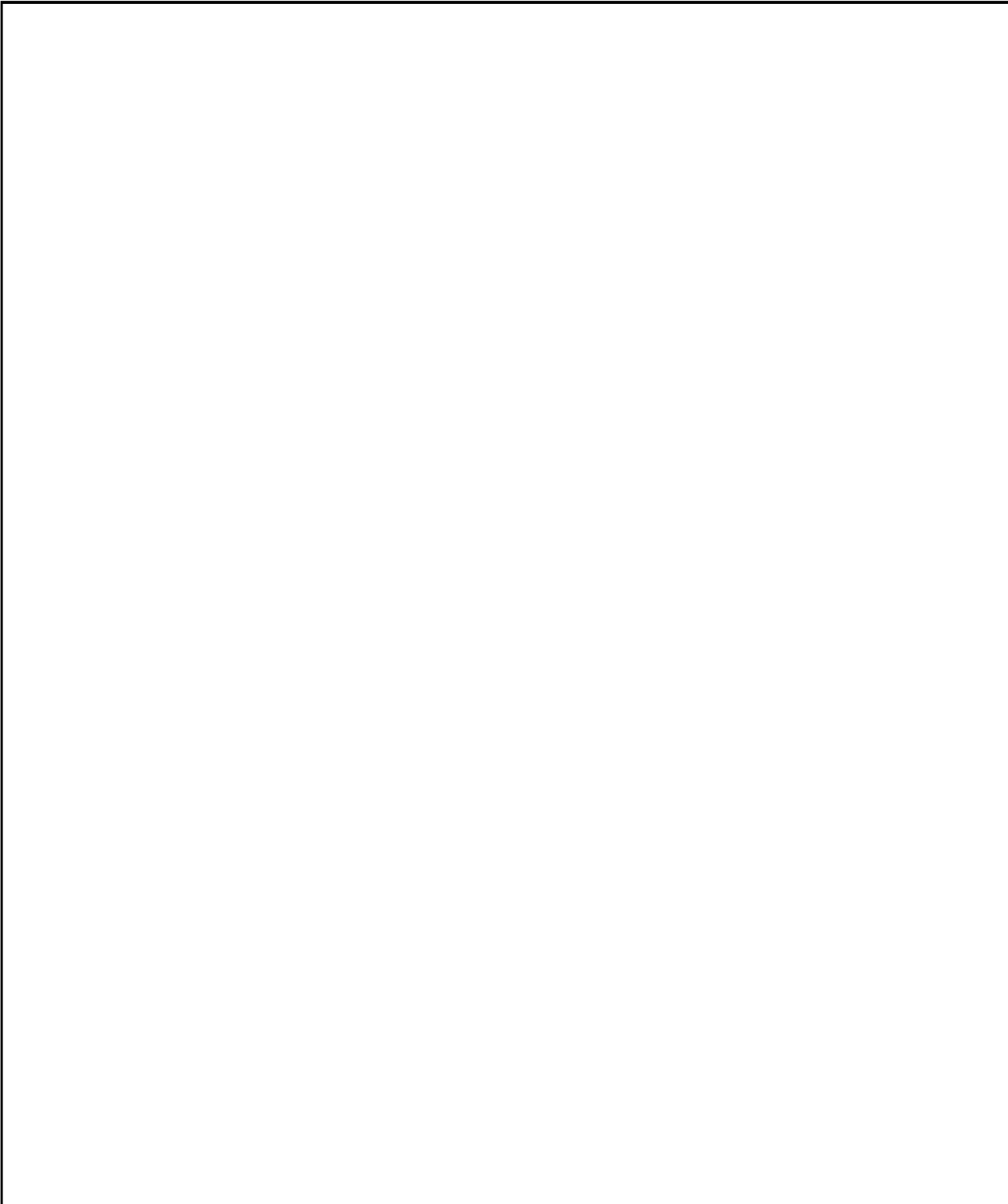
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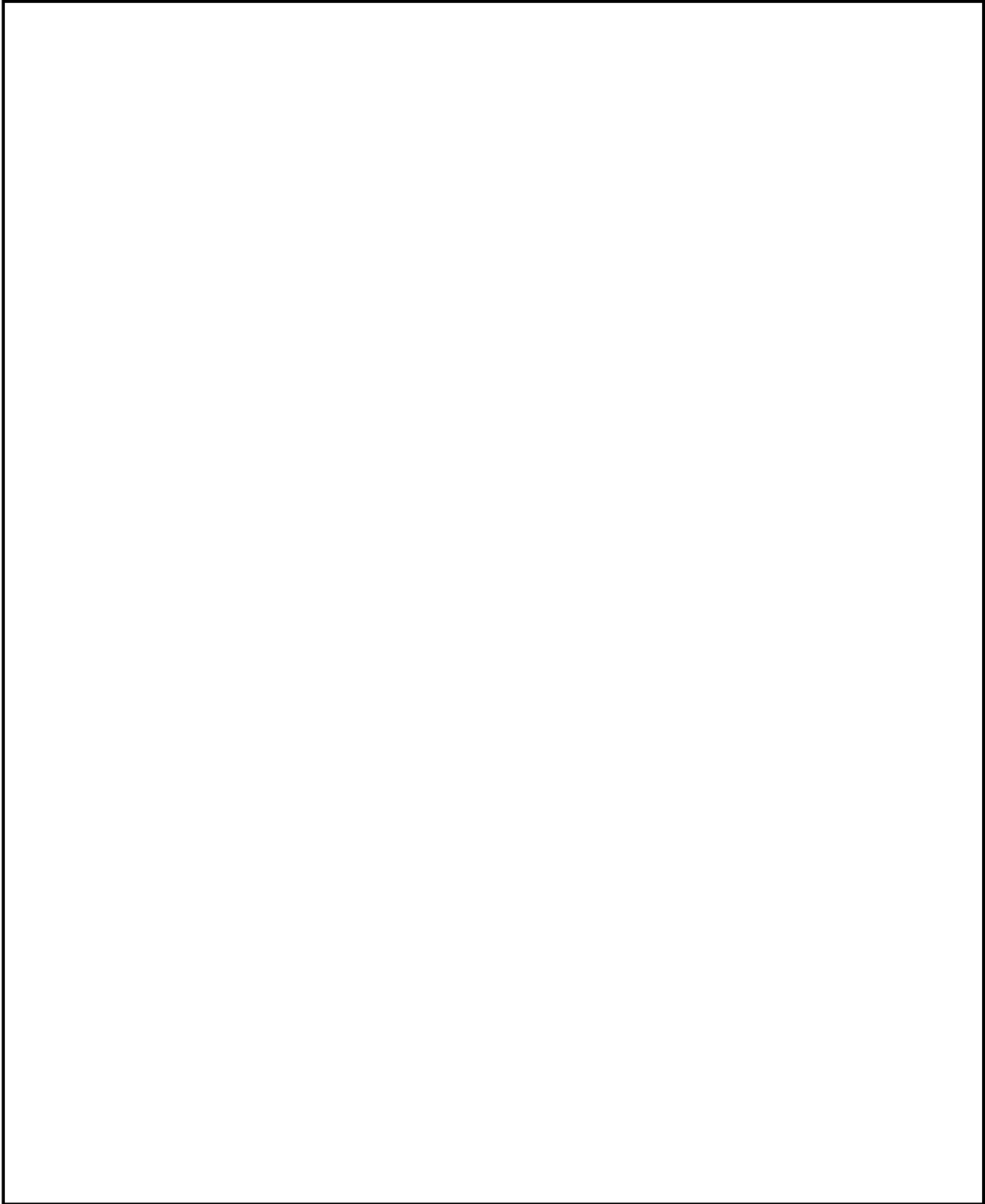
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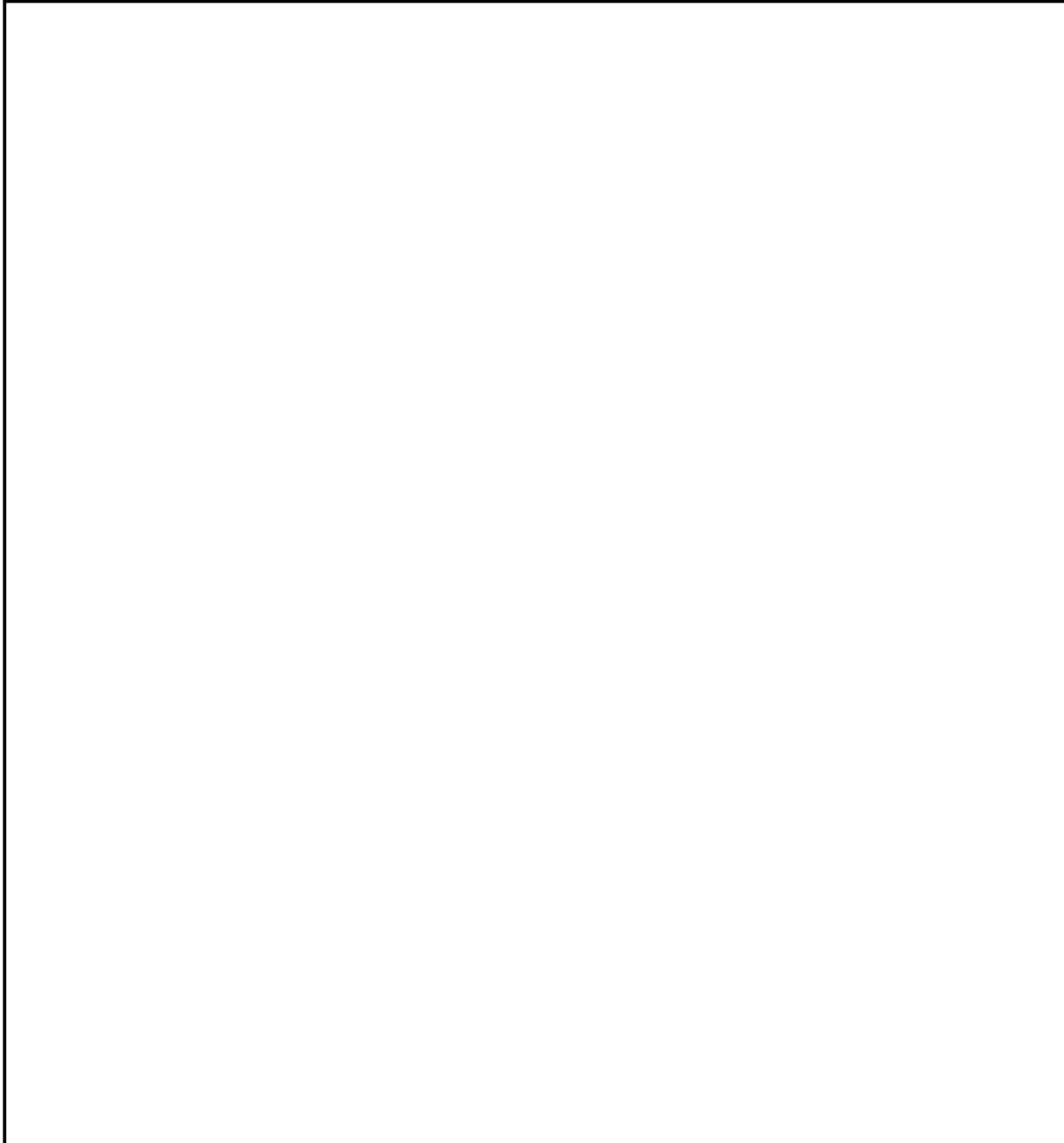


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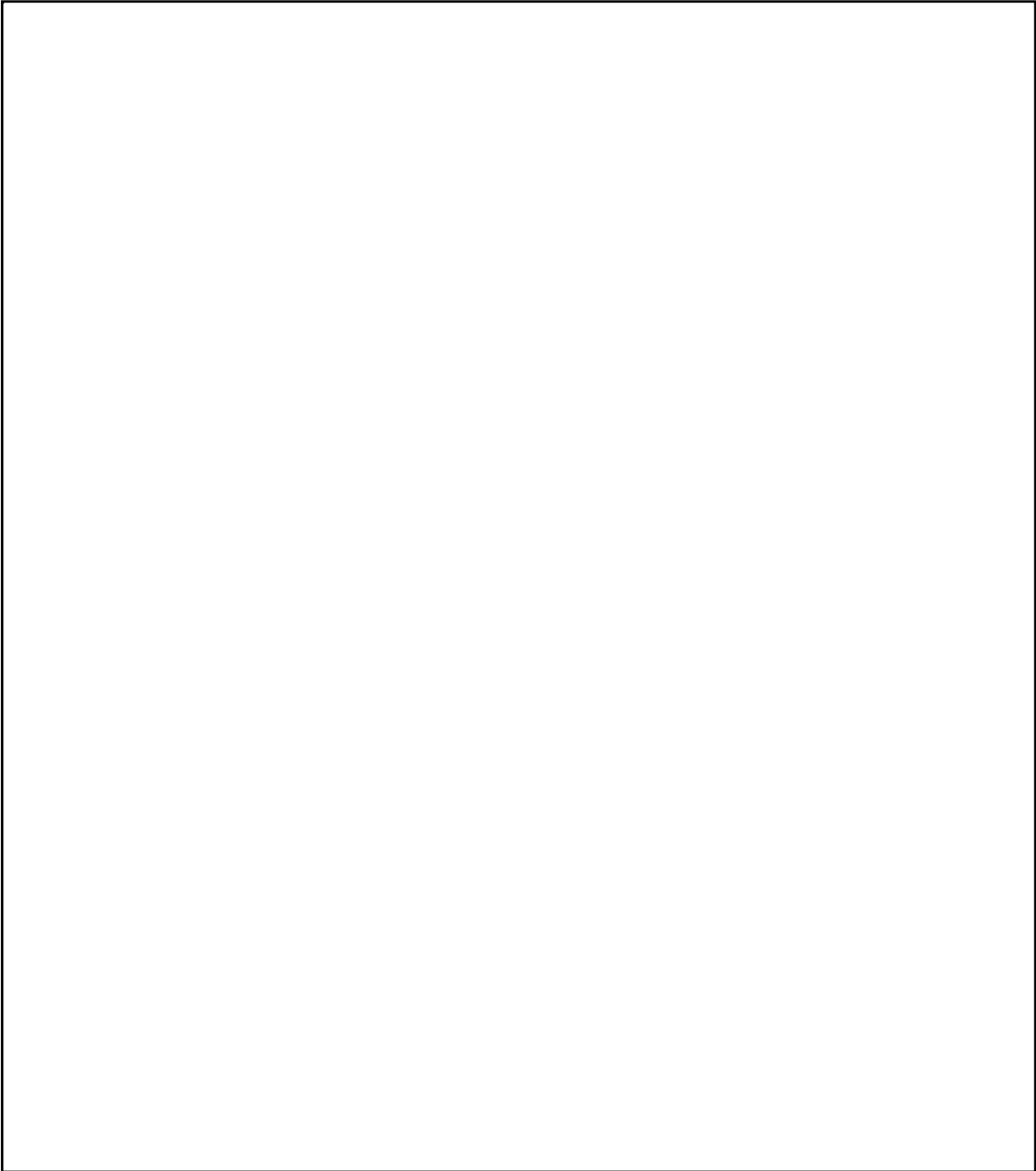
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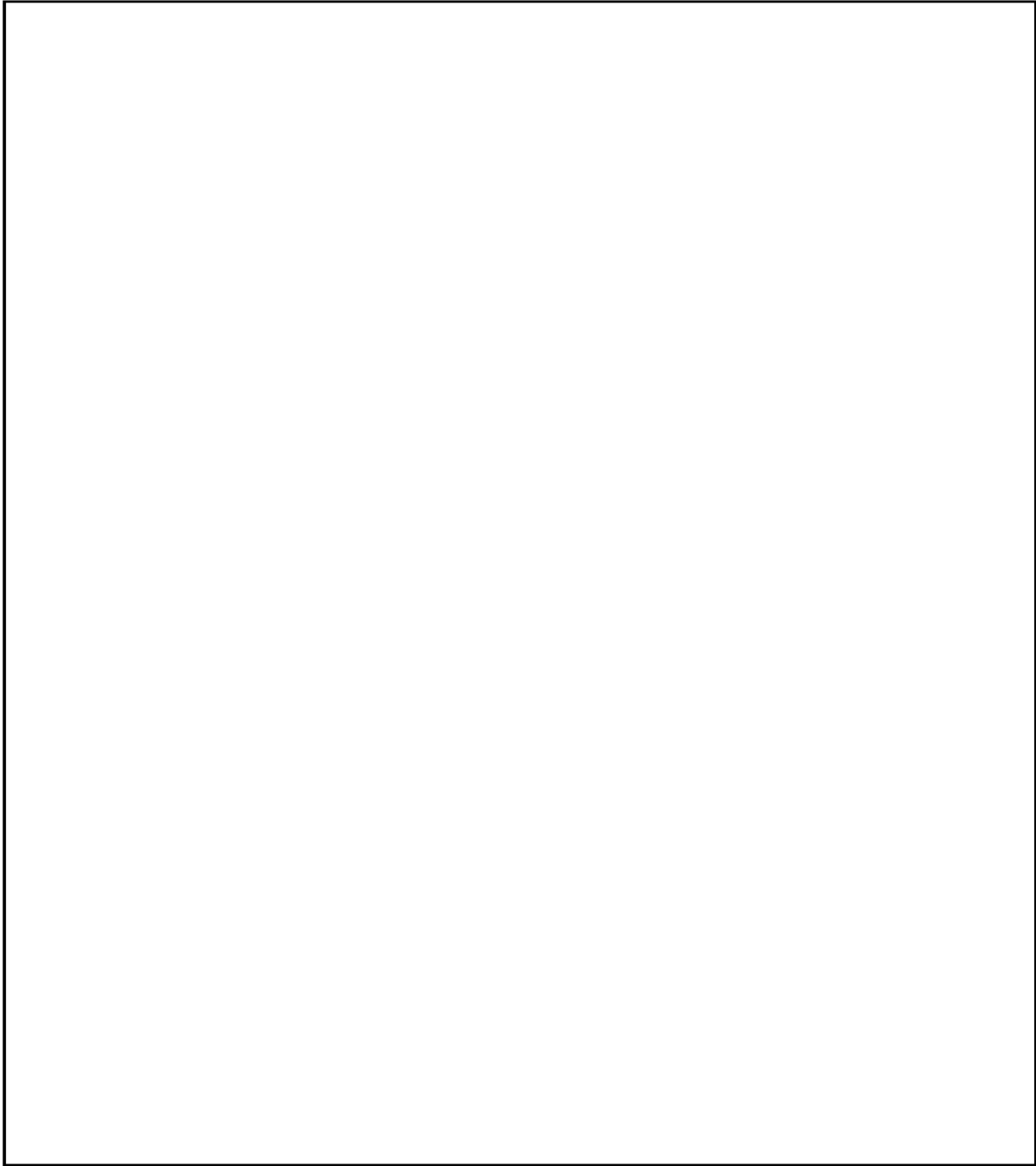
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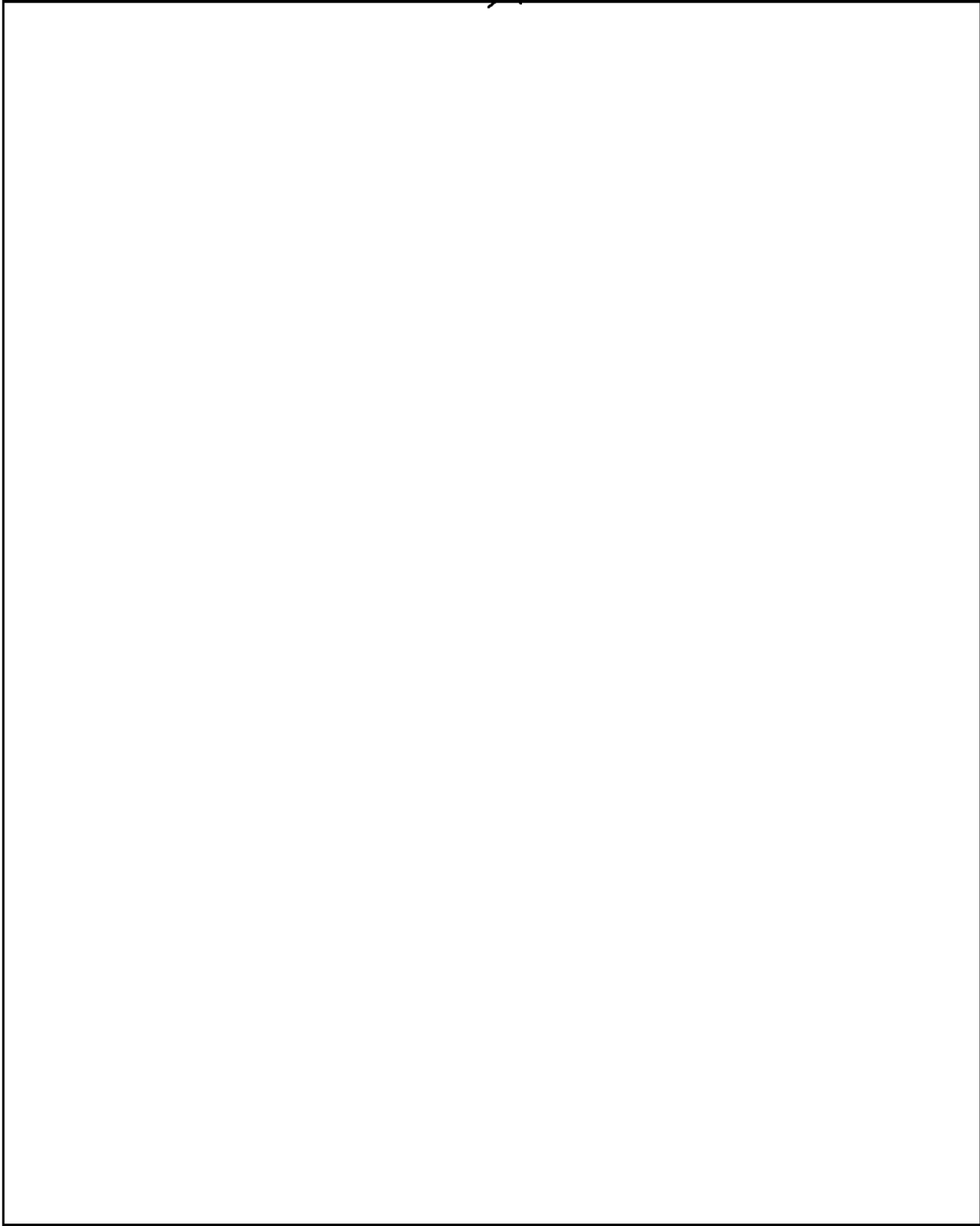
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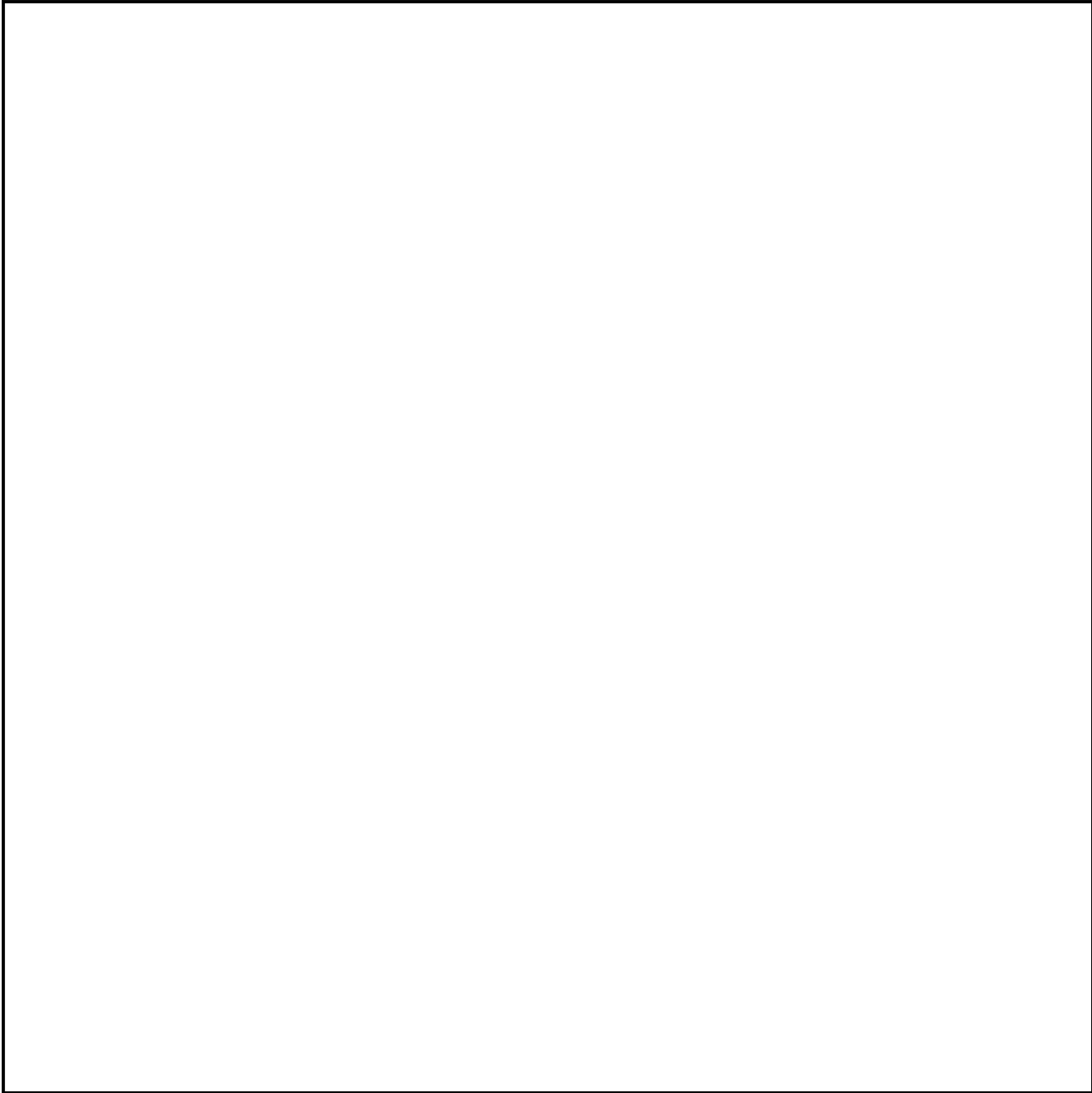


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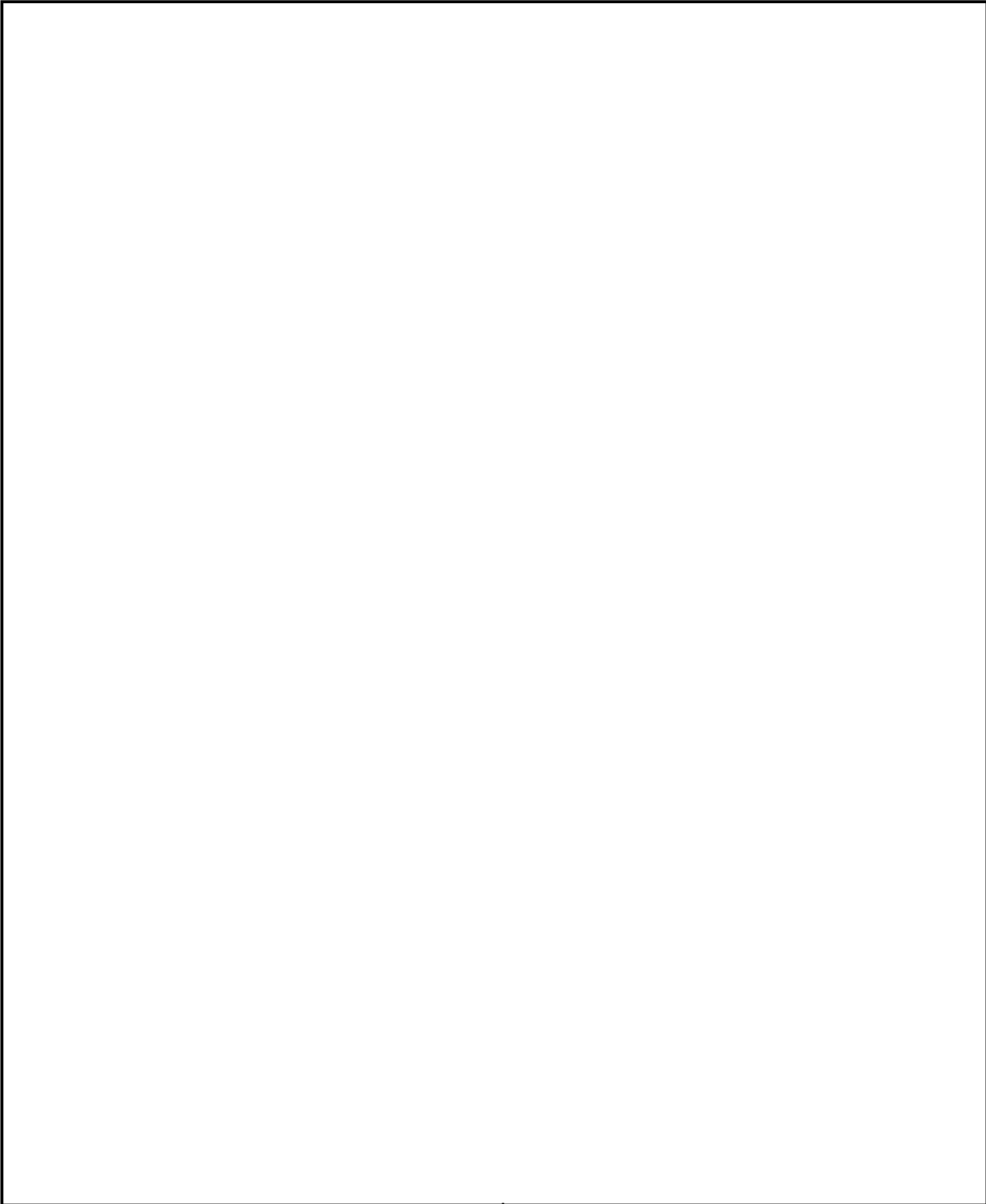
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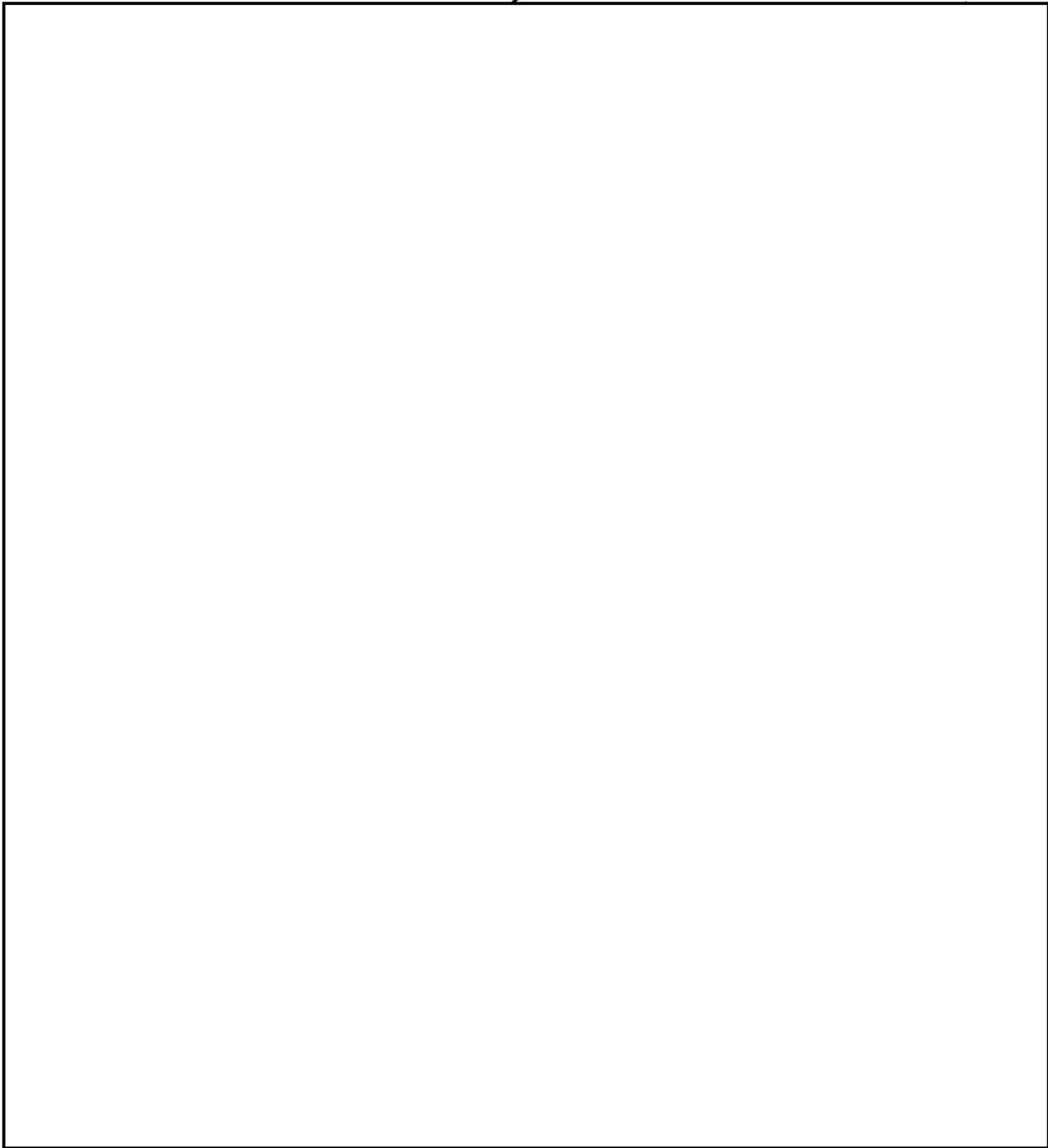


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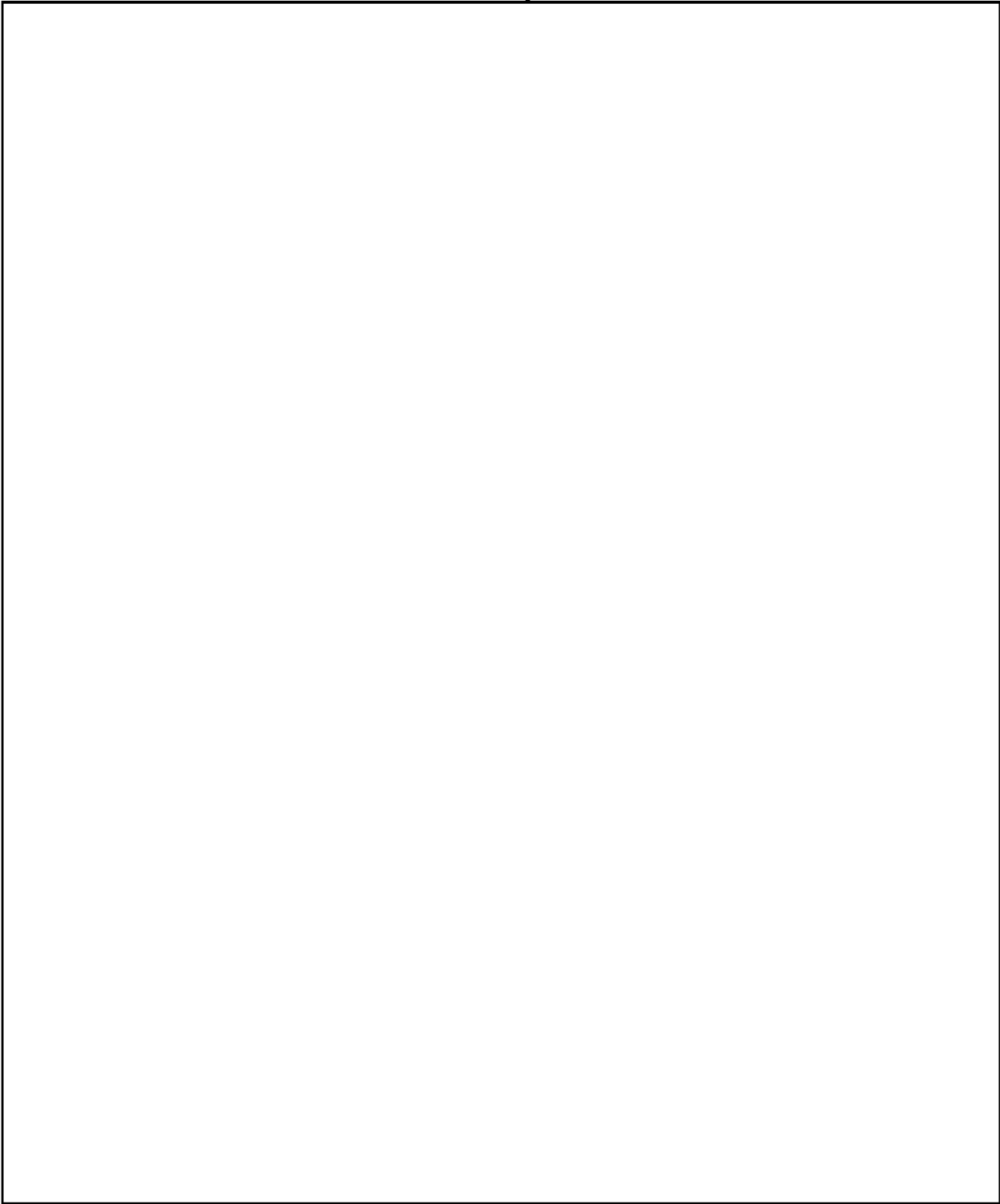
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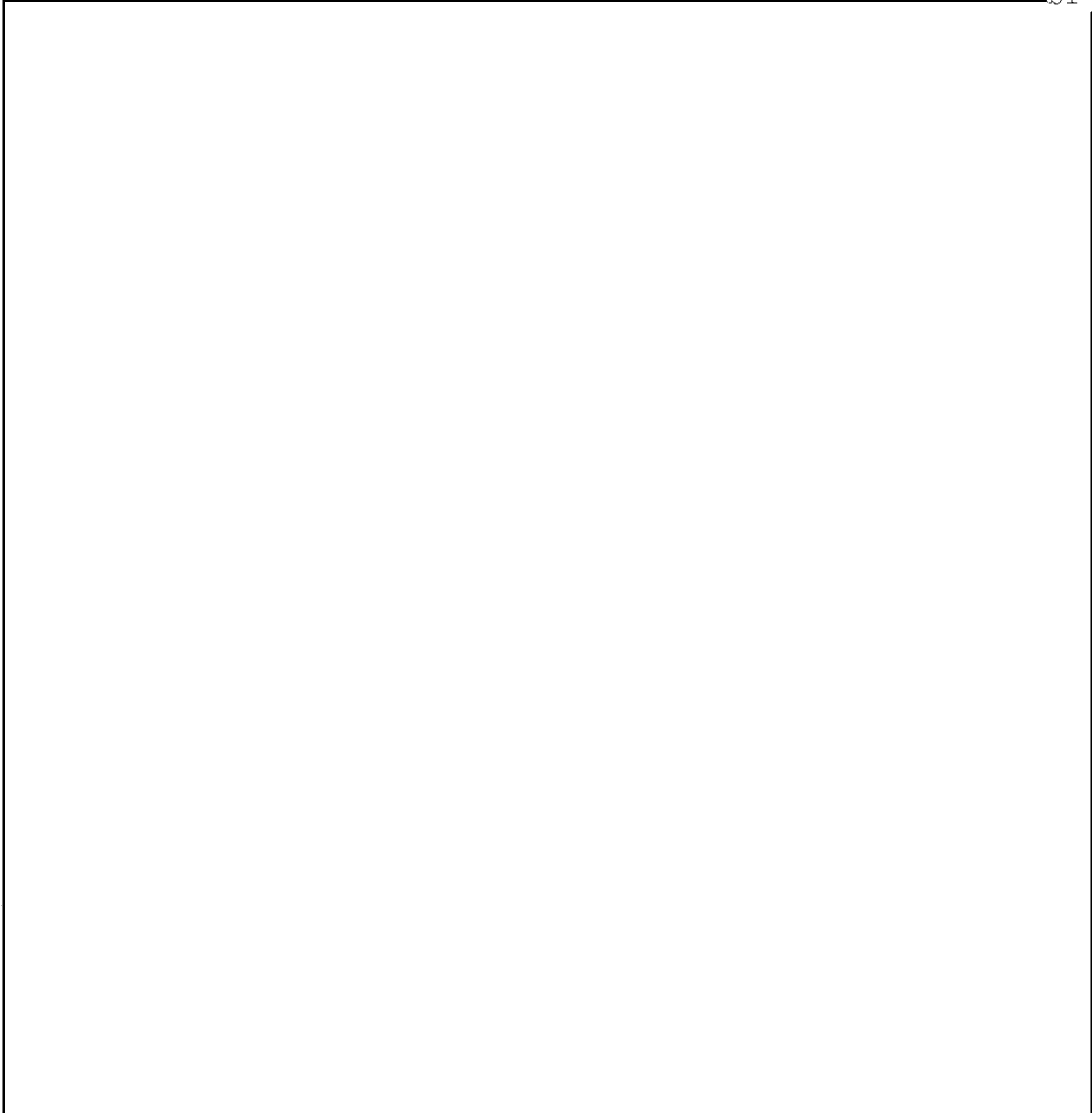
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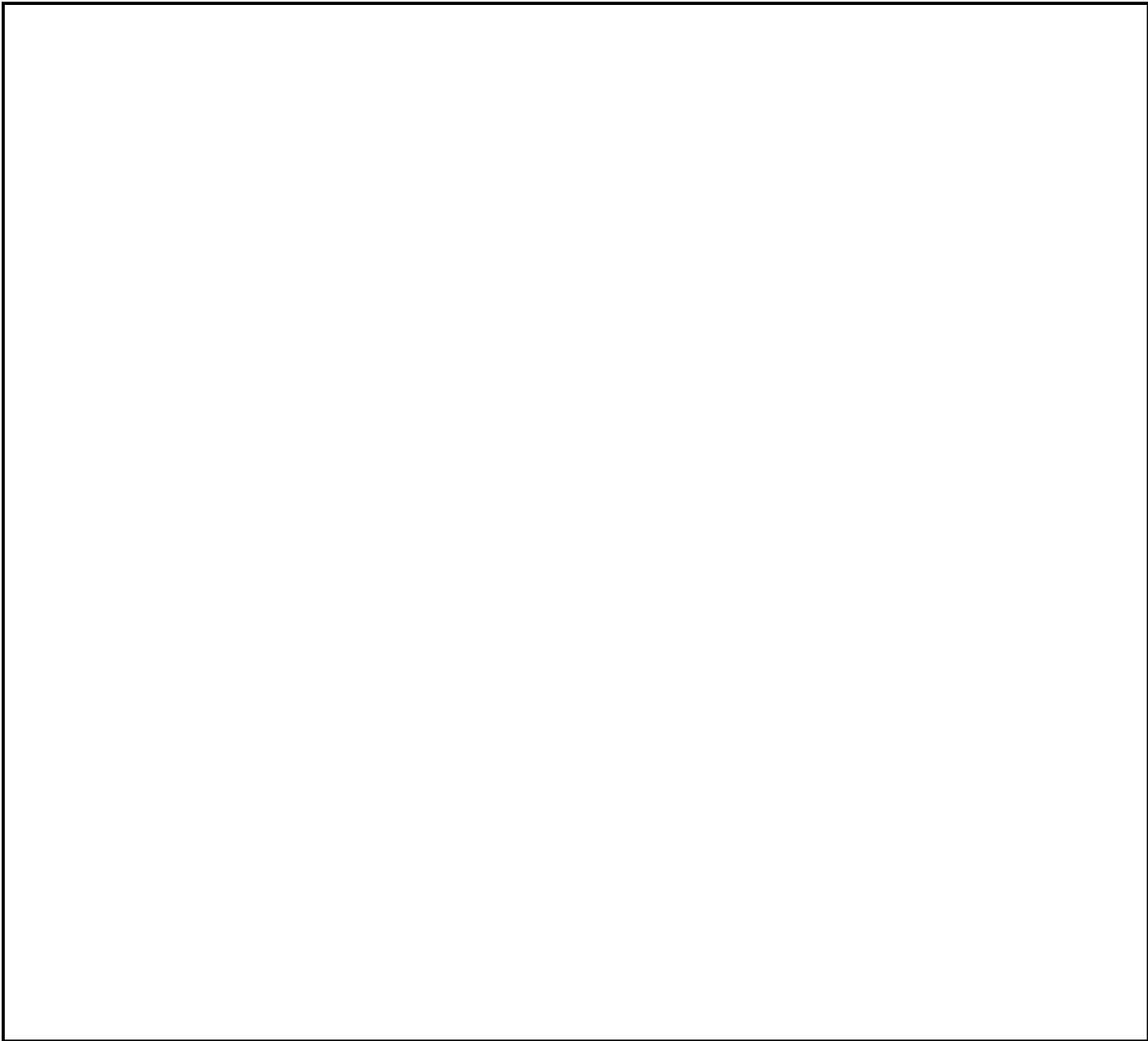
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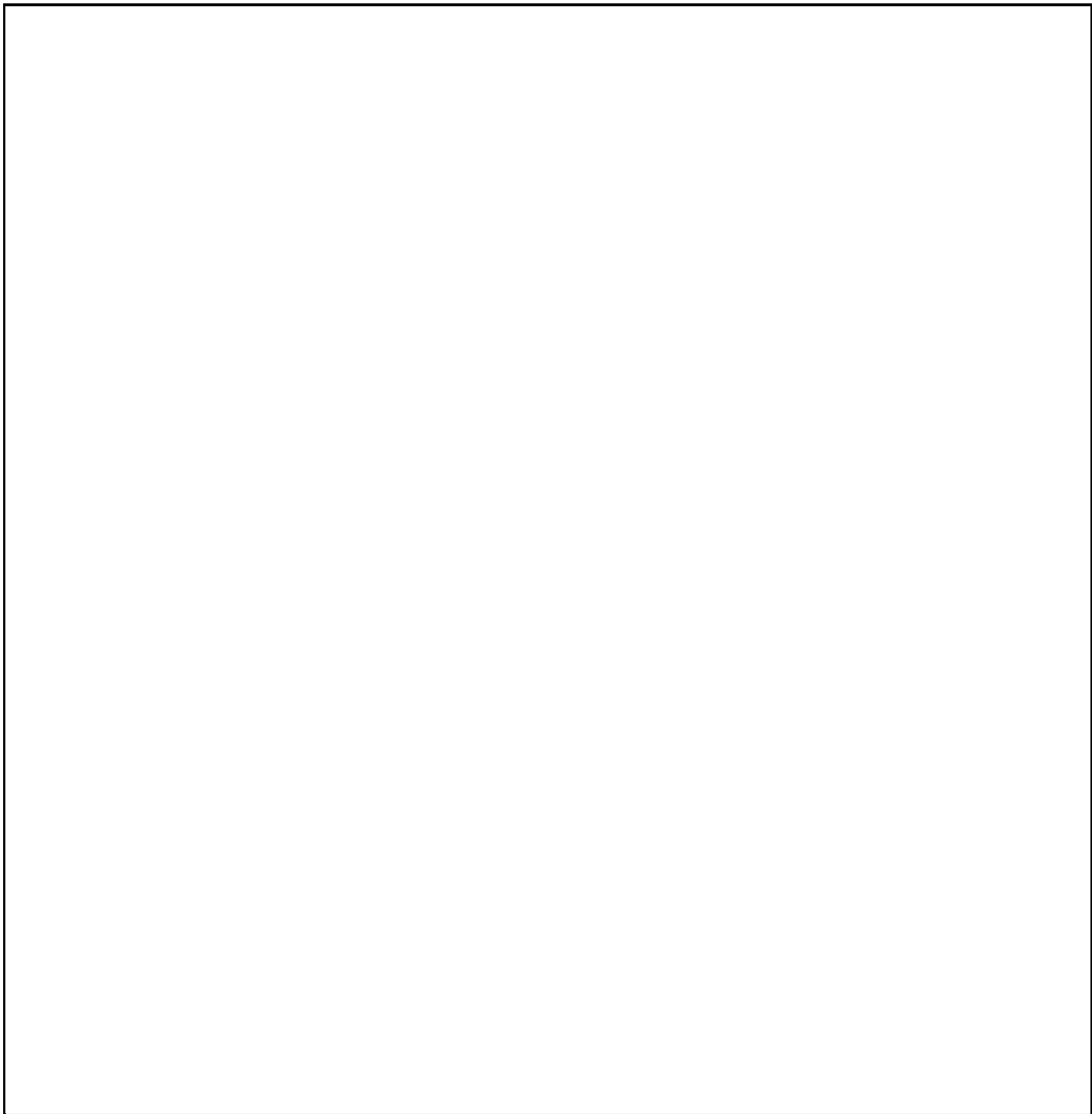


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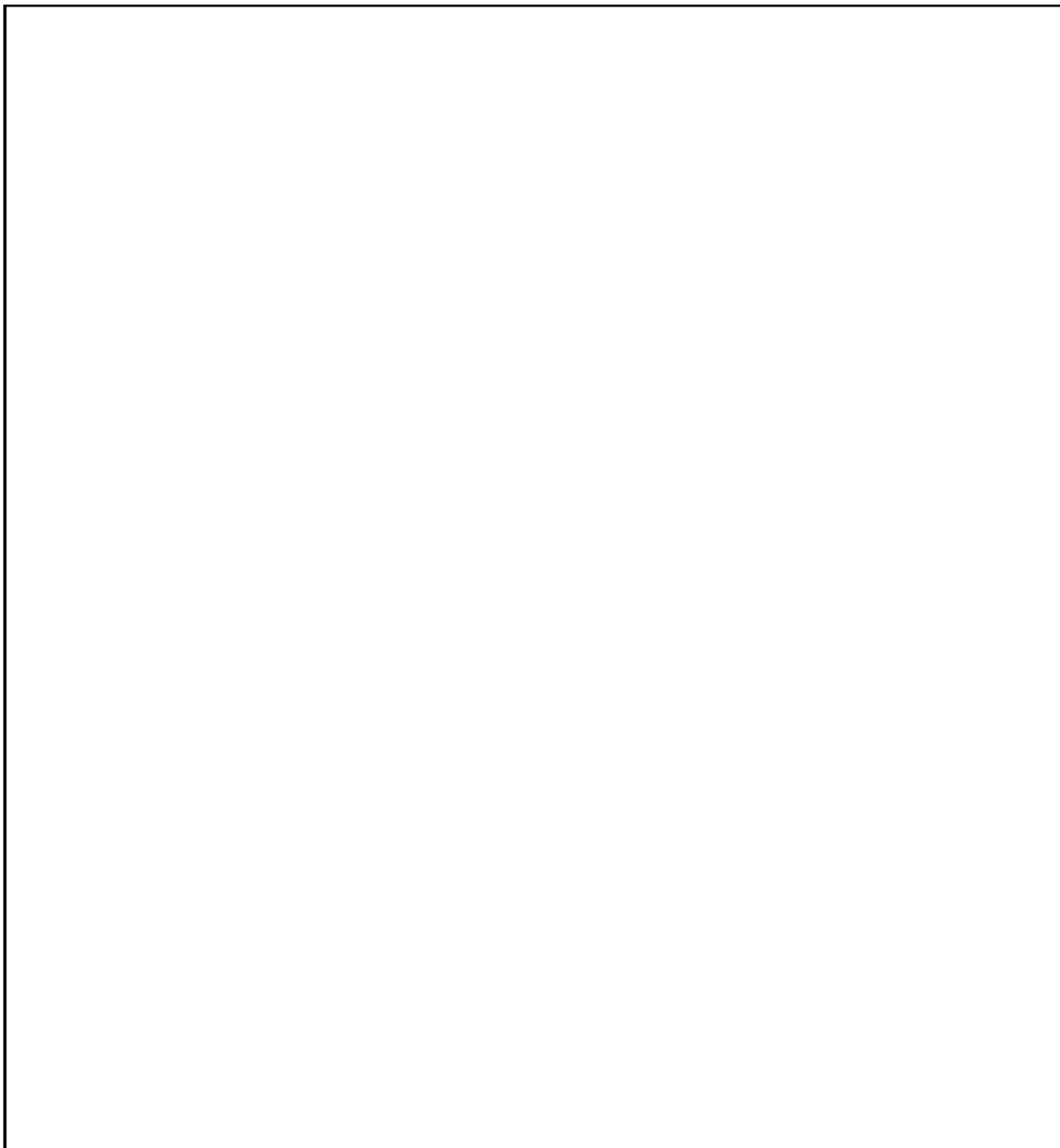
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**IOBs FY 2004**

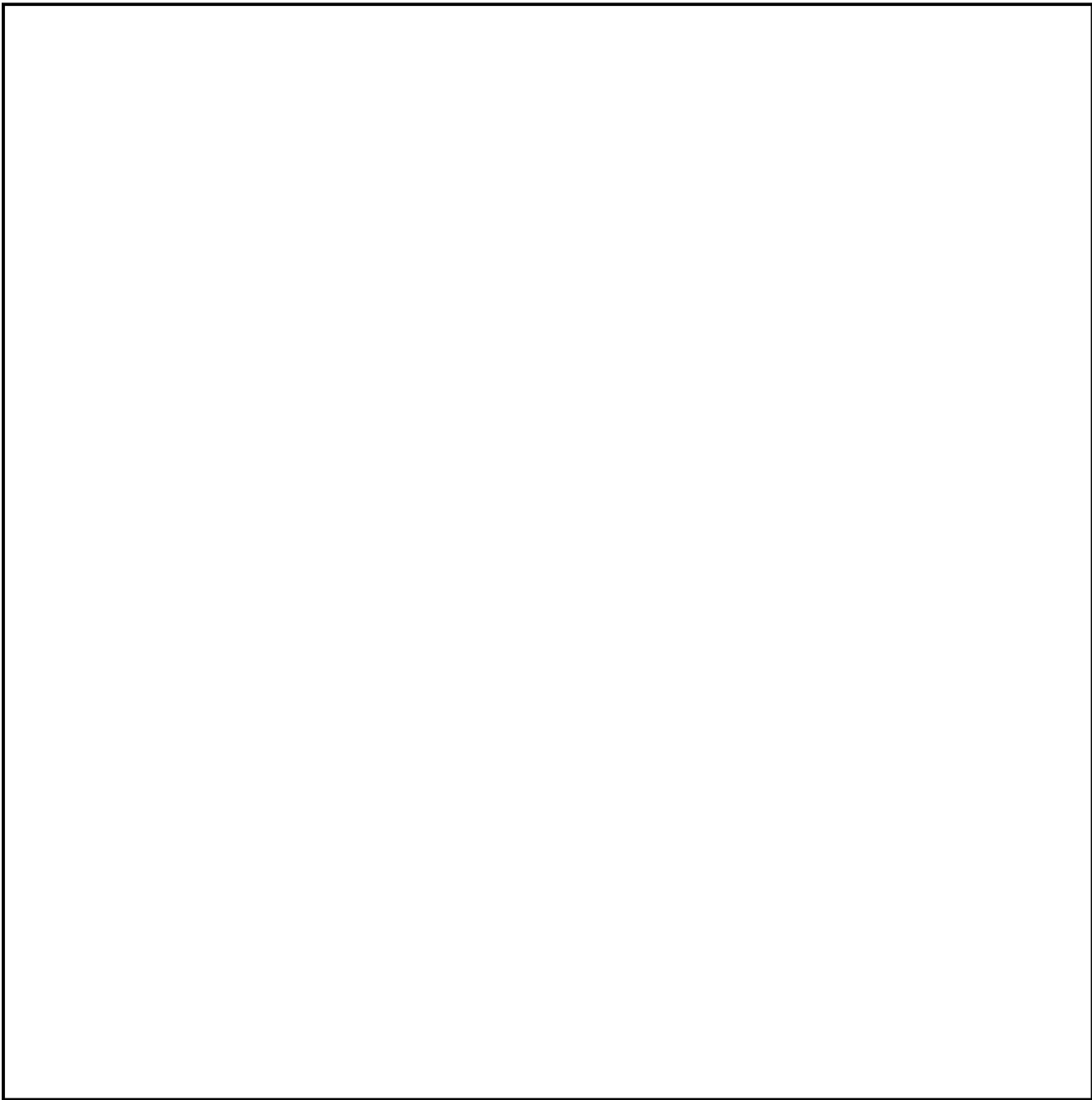


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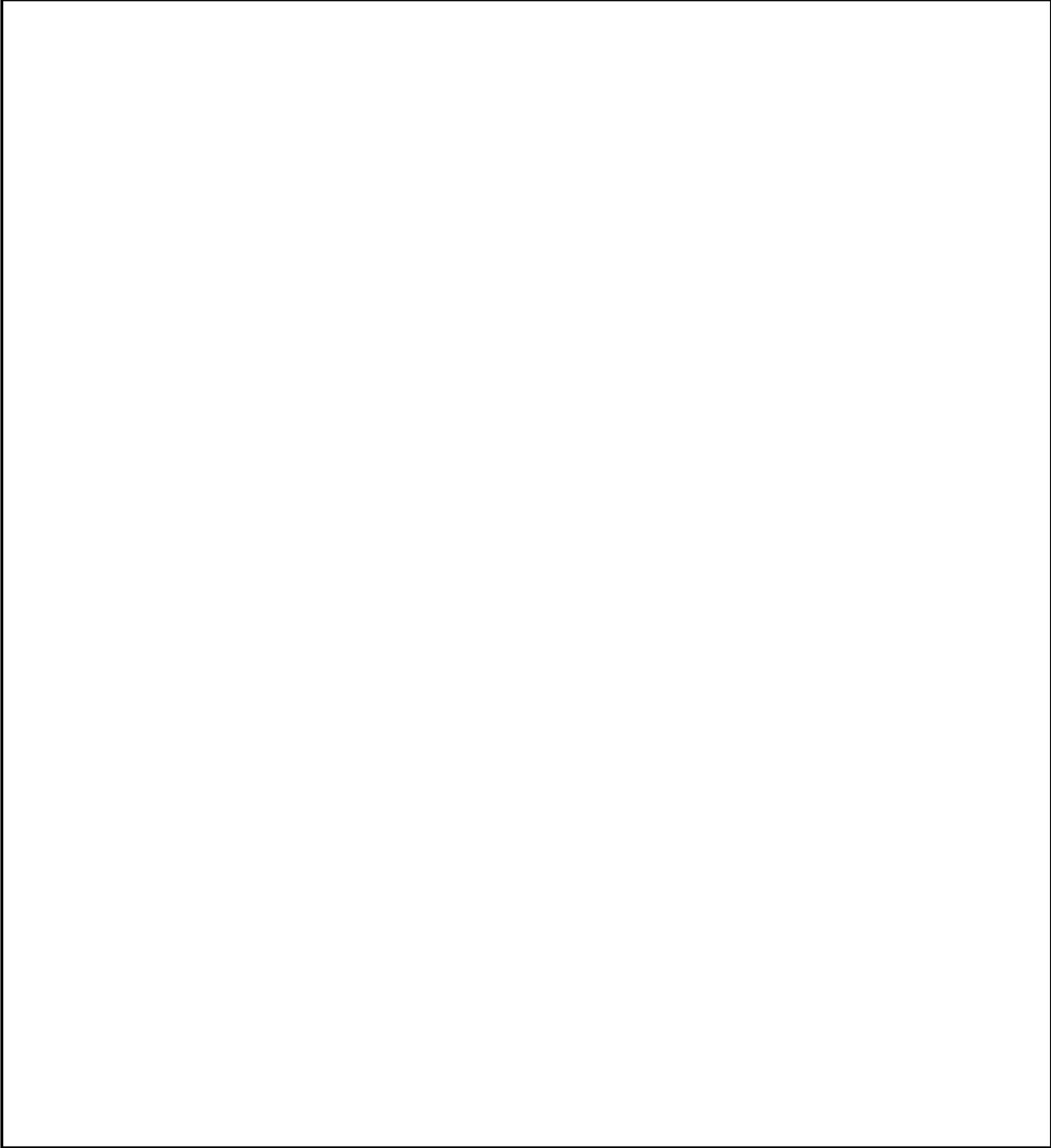


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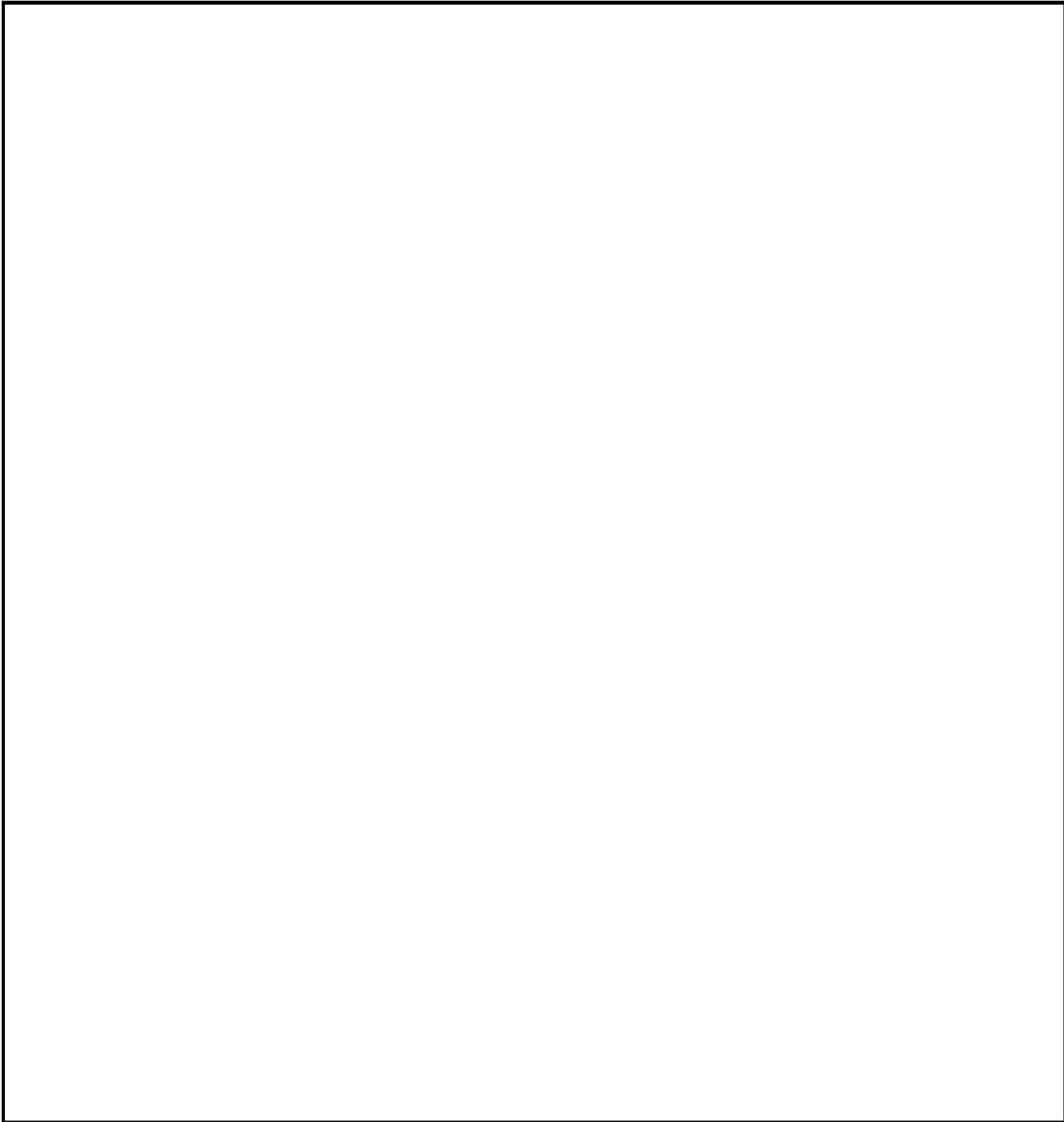
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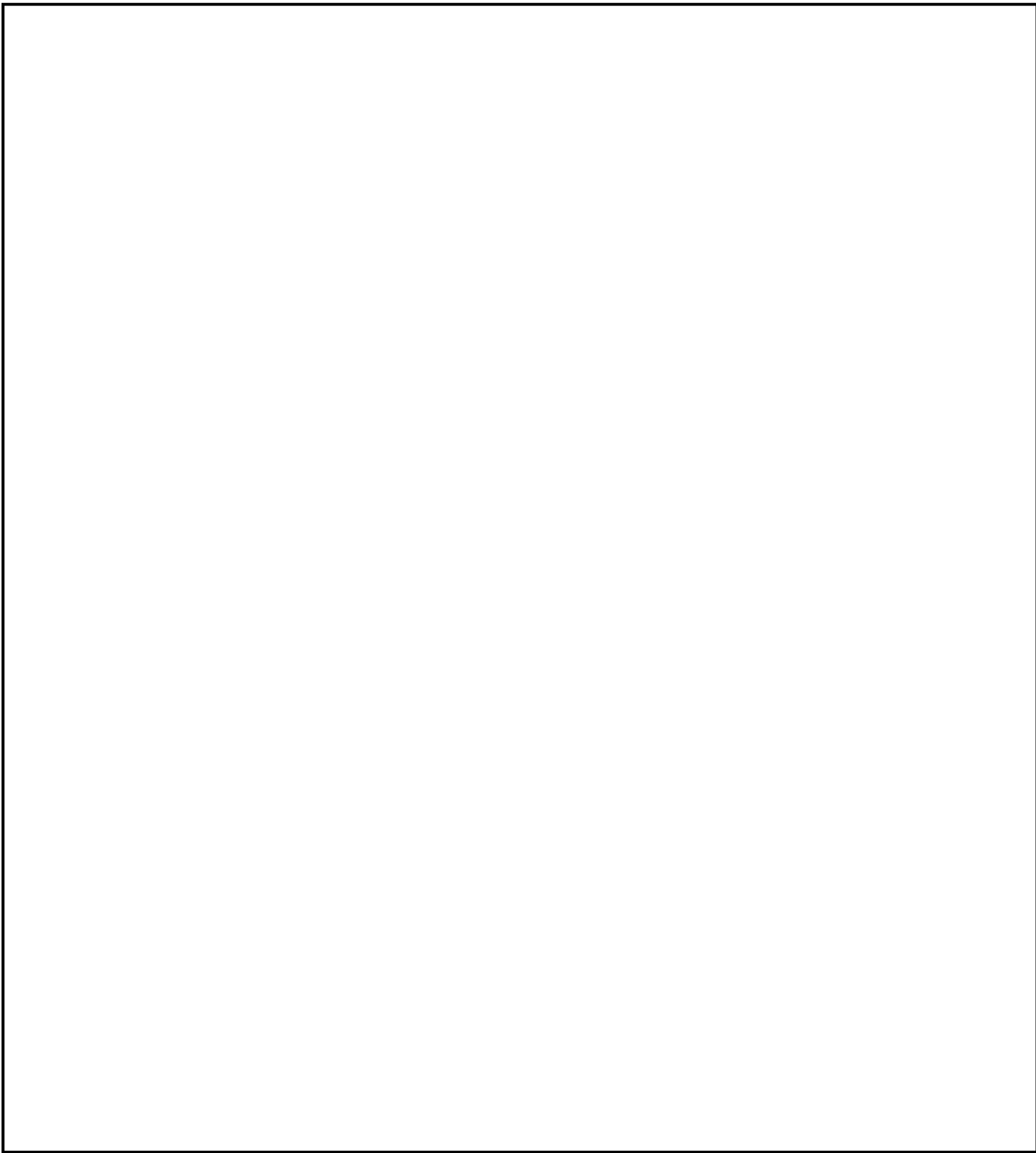
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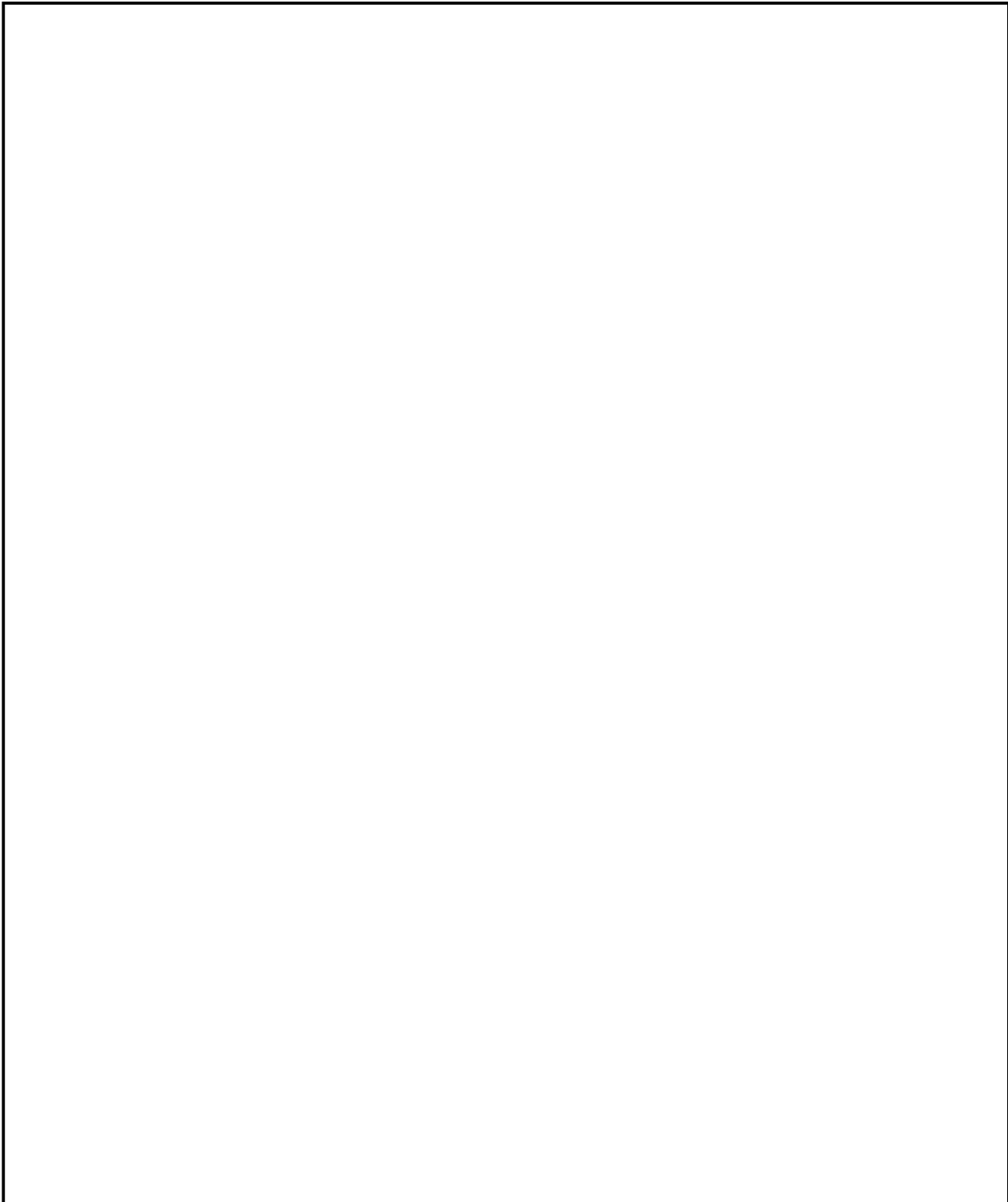
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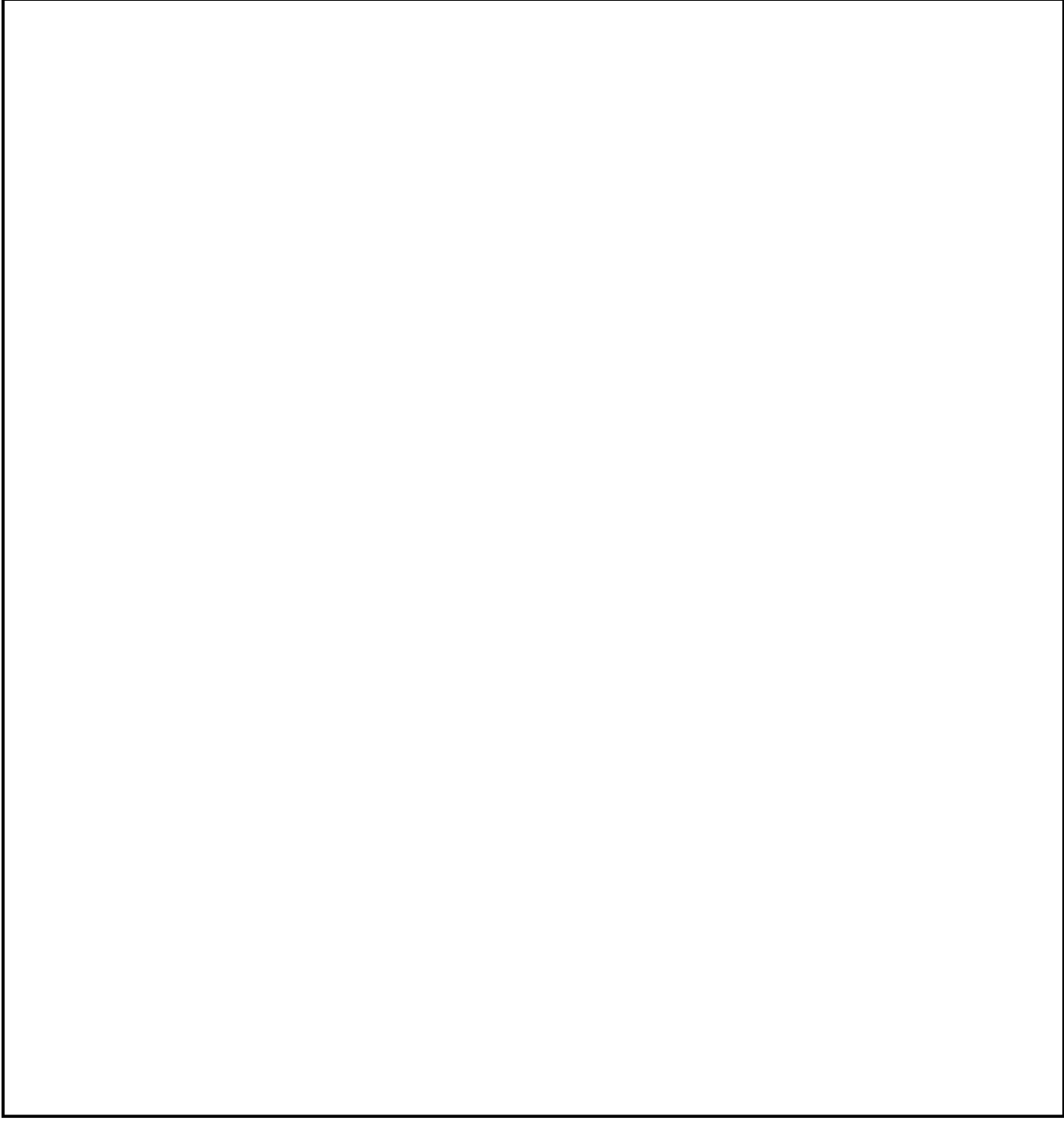
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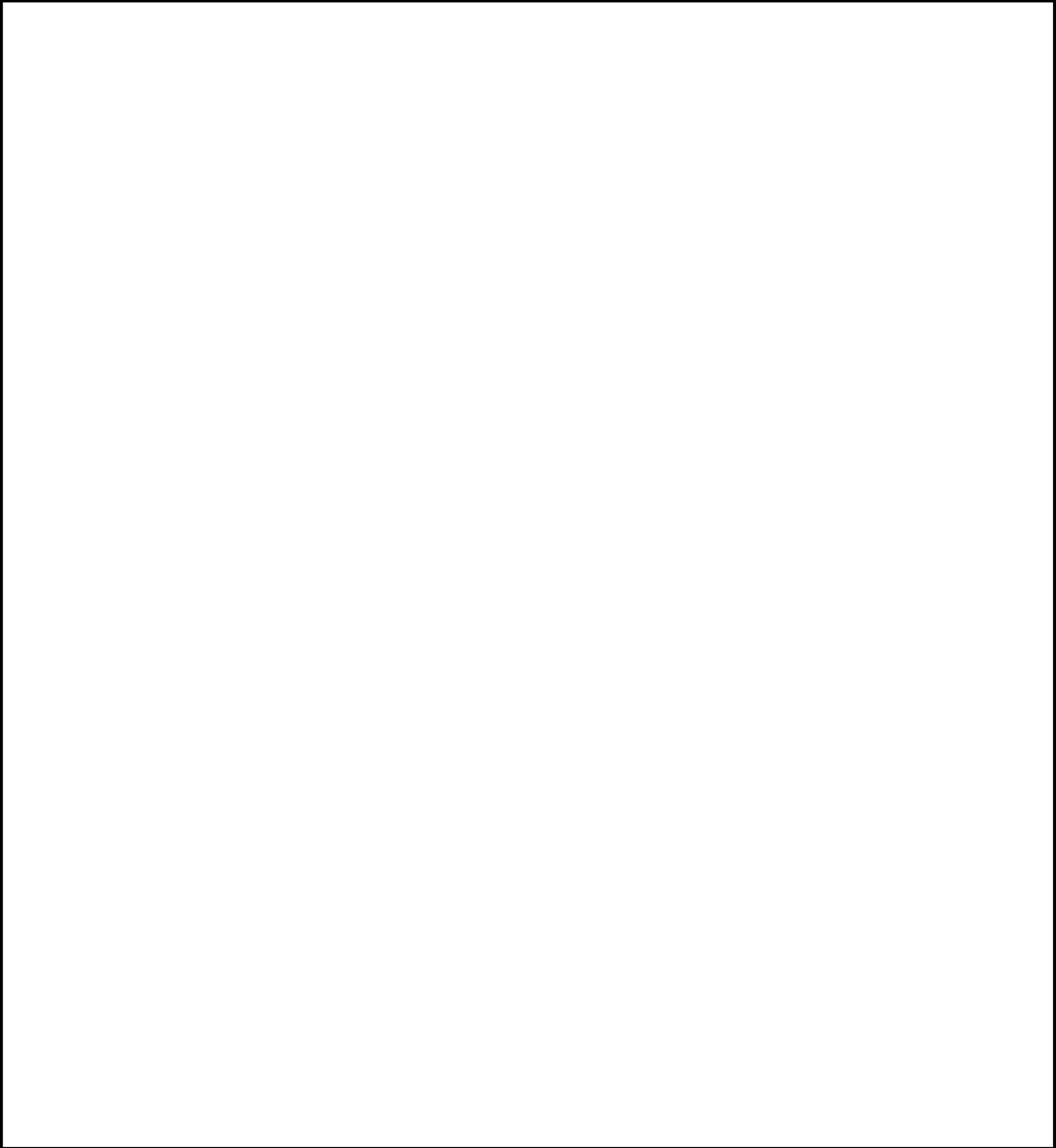


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IOBs FY 2005



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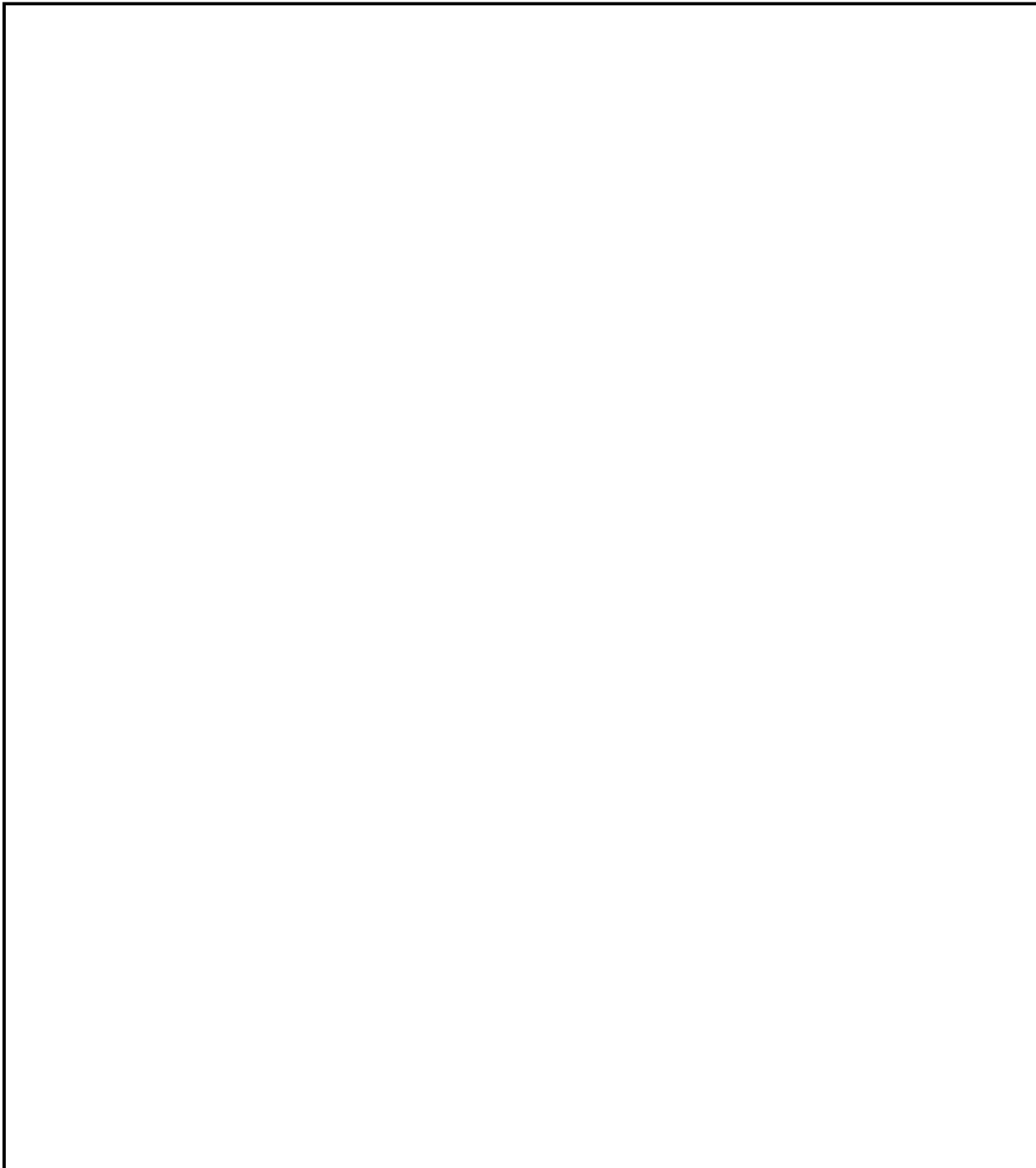


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**IOBs FY 2005**



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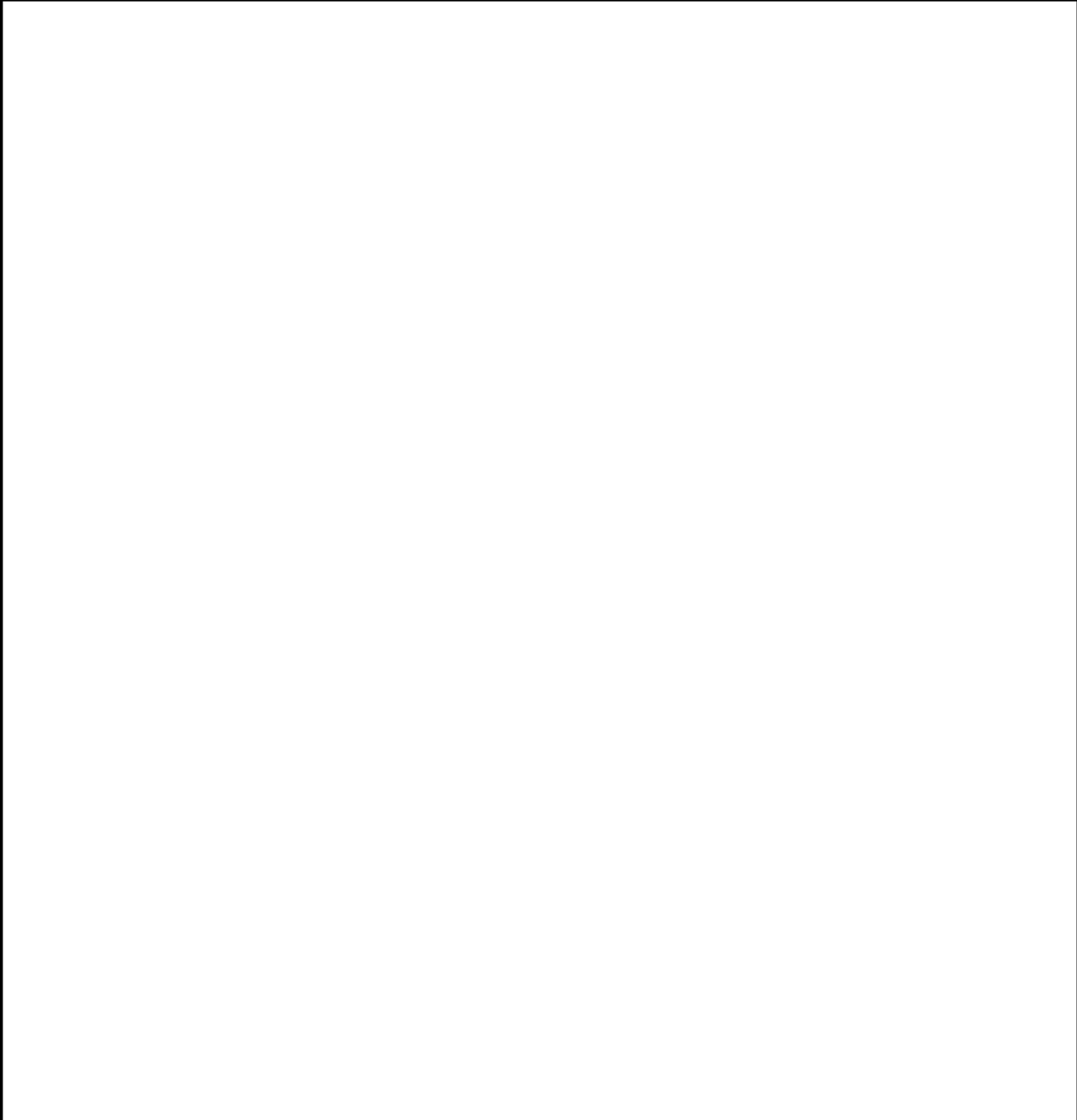


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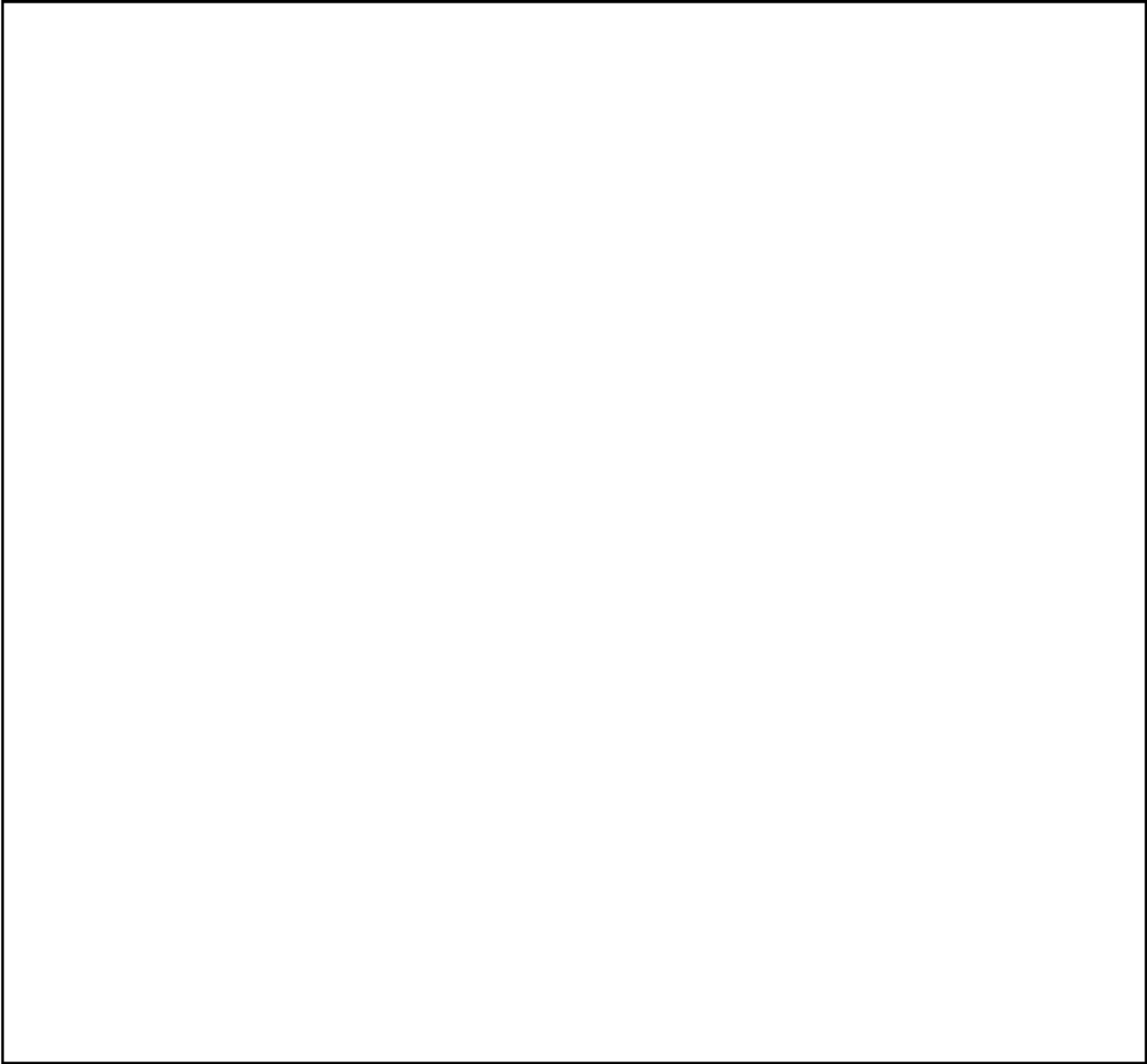
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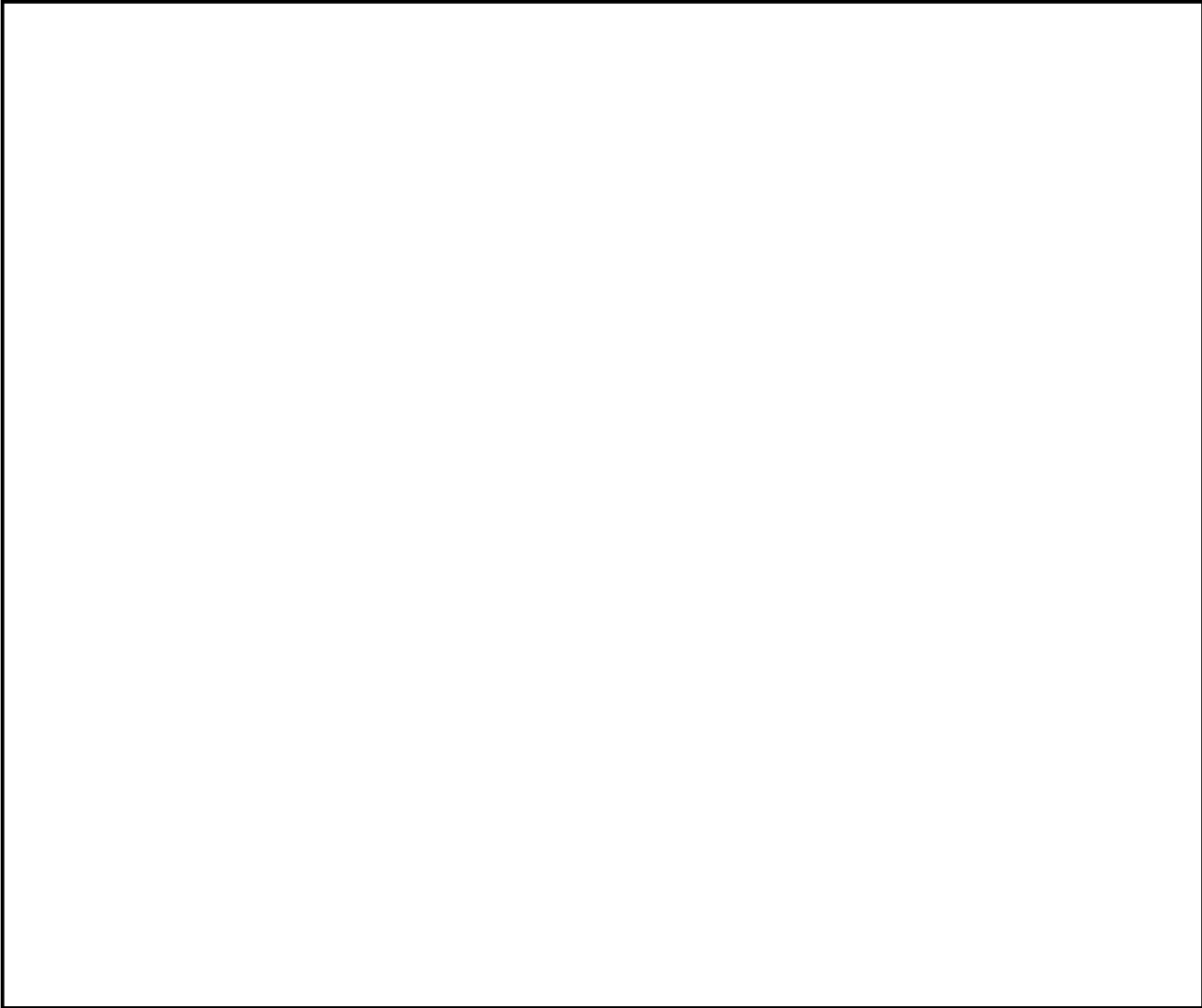


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IOBs FY 2005

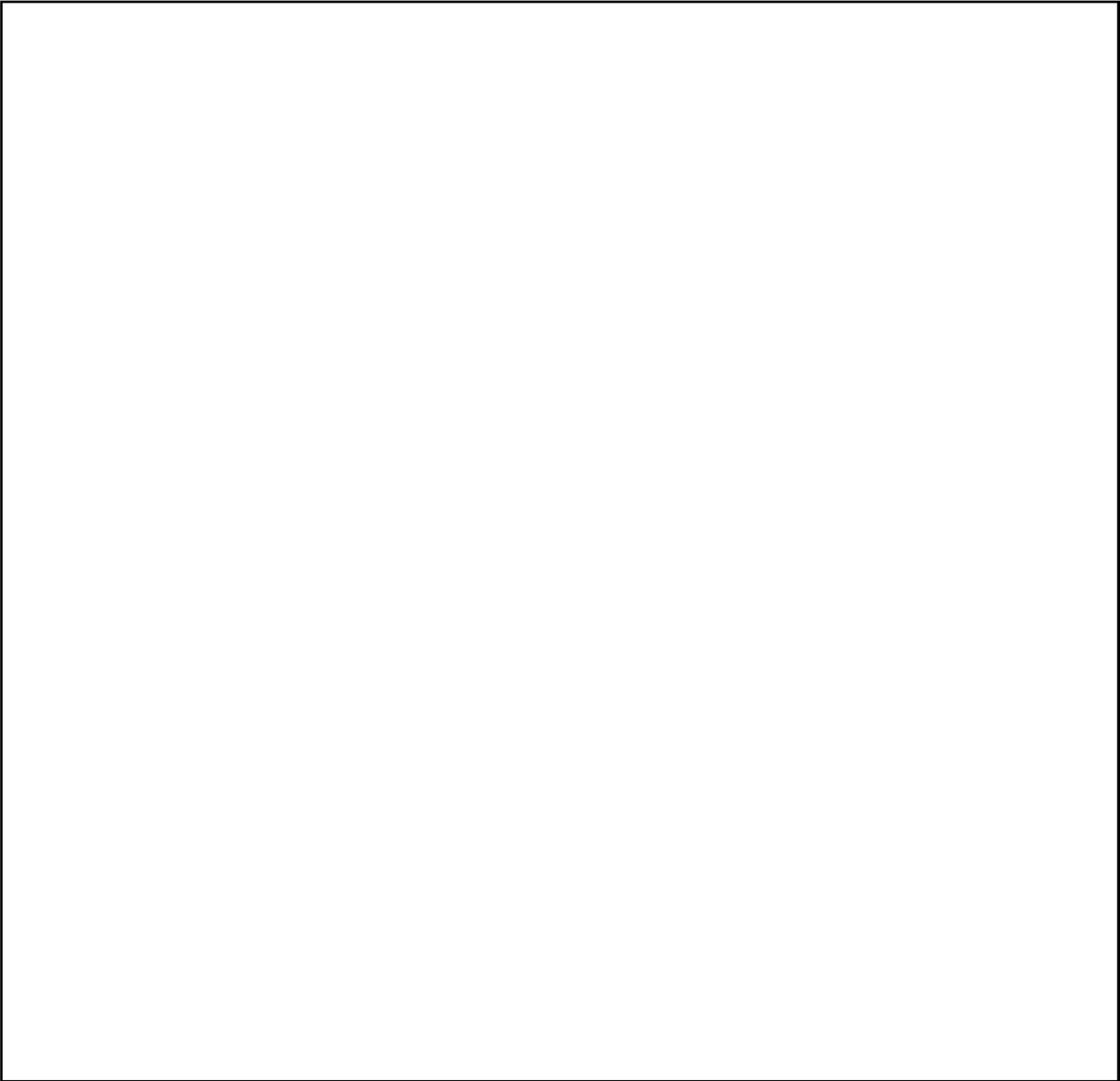


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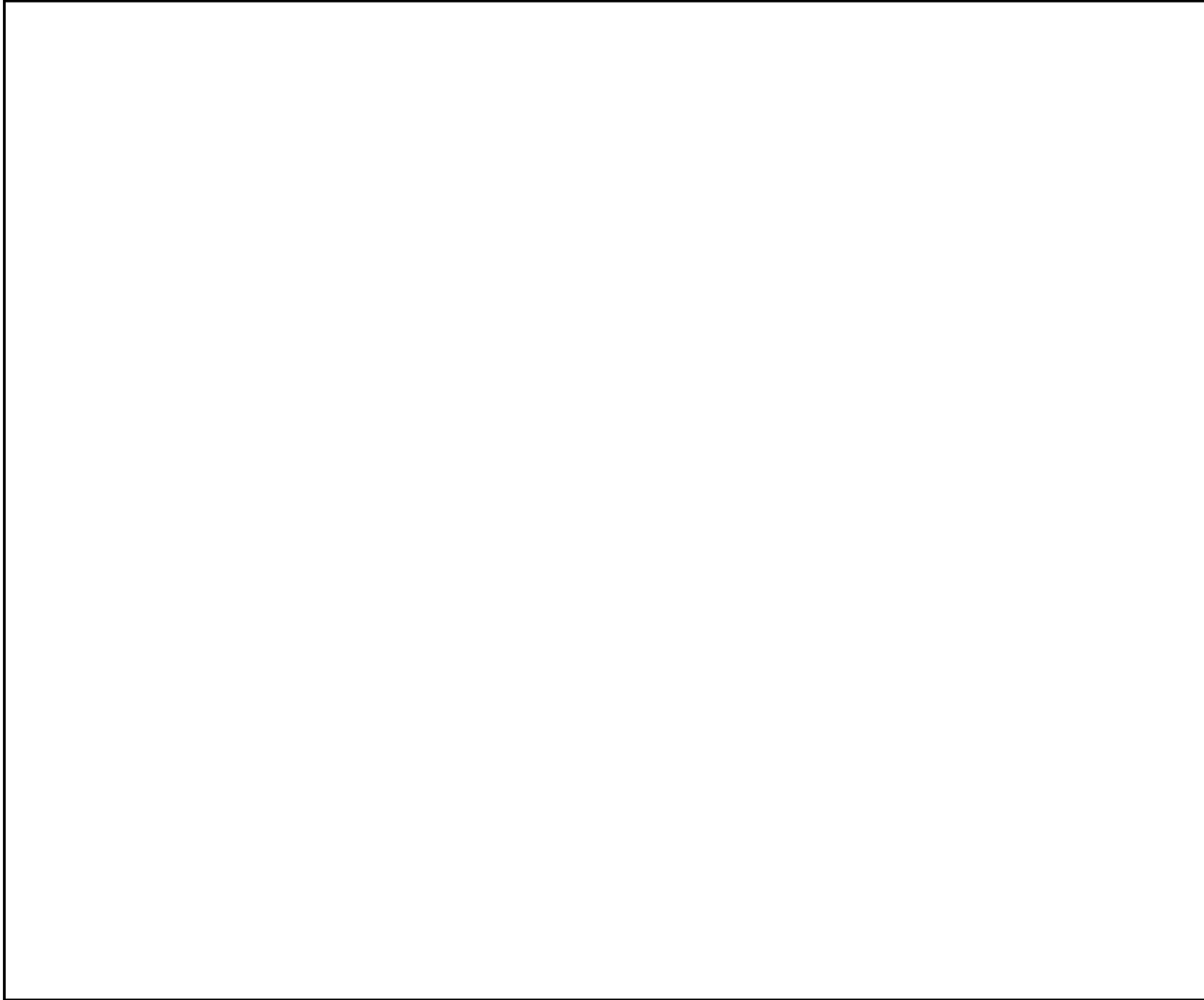


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**IOBs FY 2005**

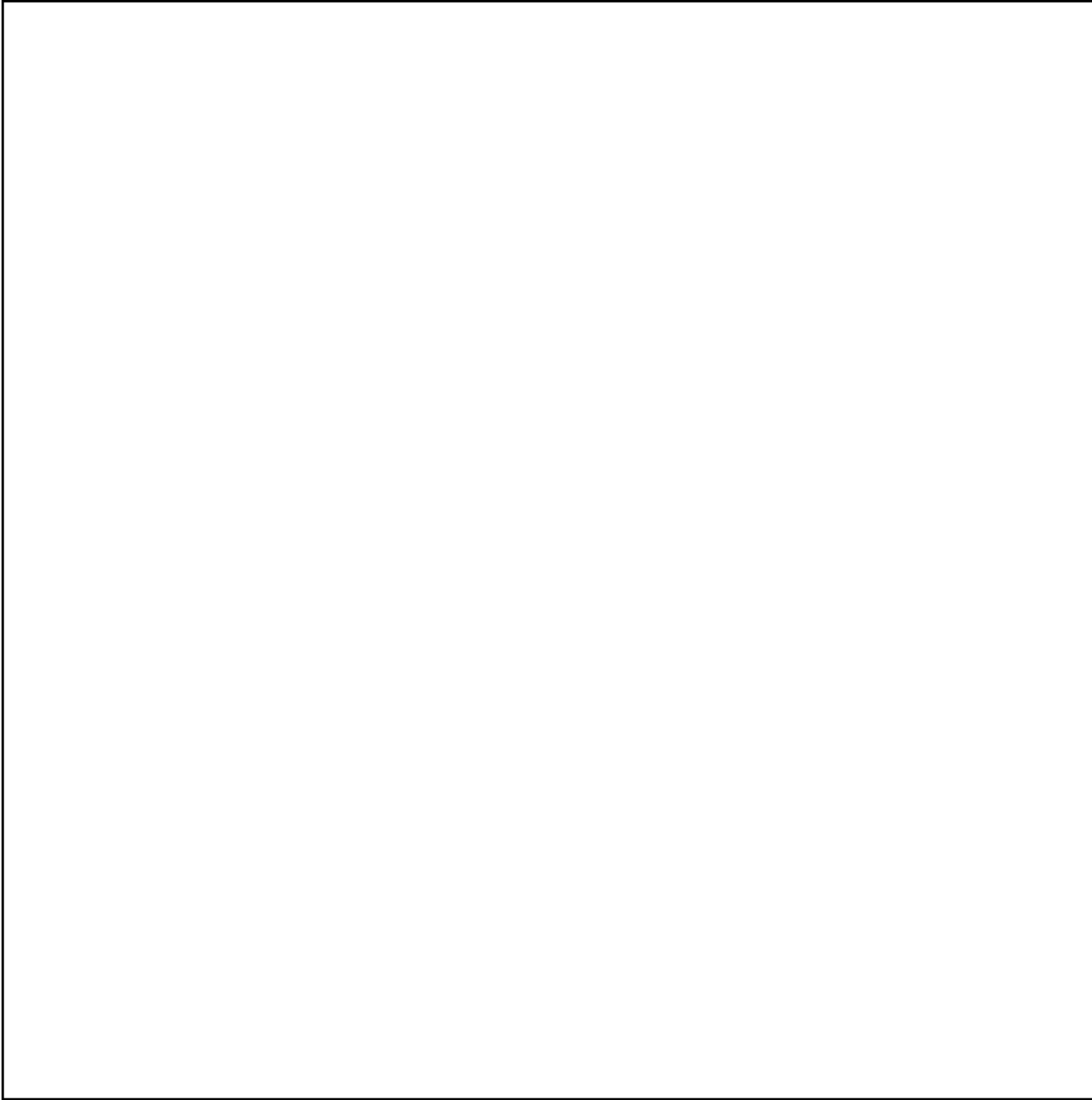


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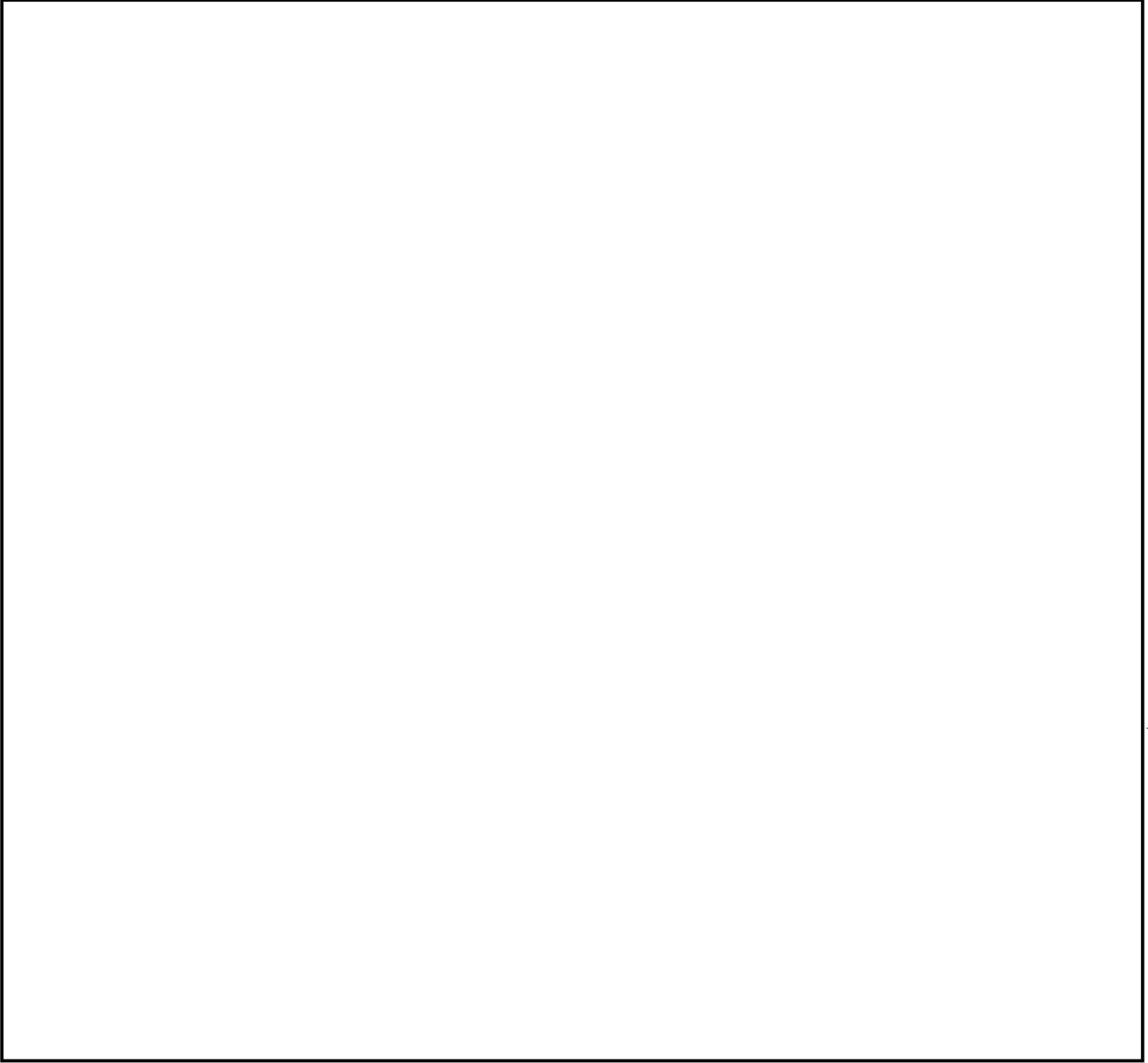
IOBs FY 2005



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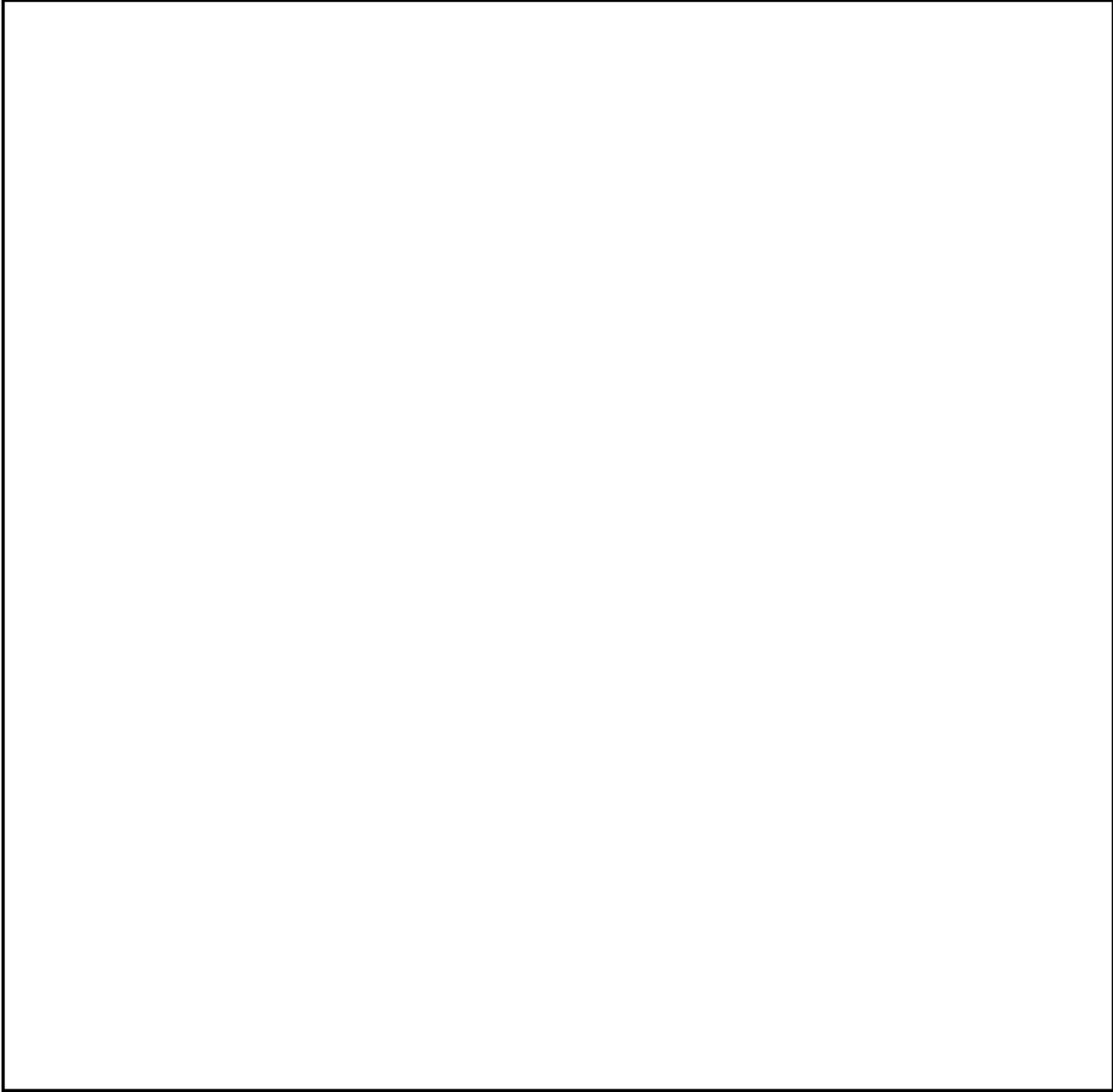
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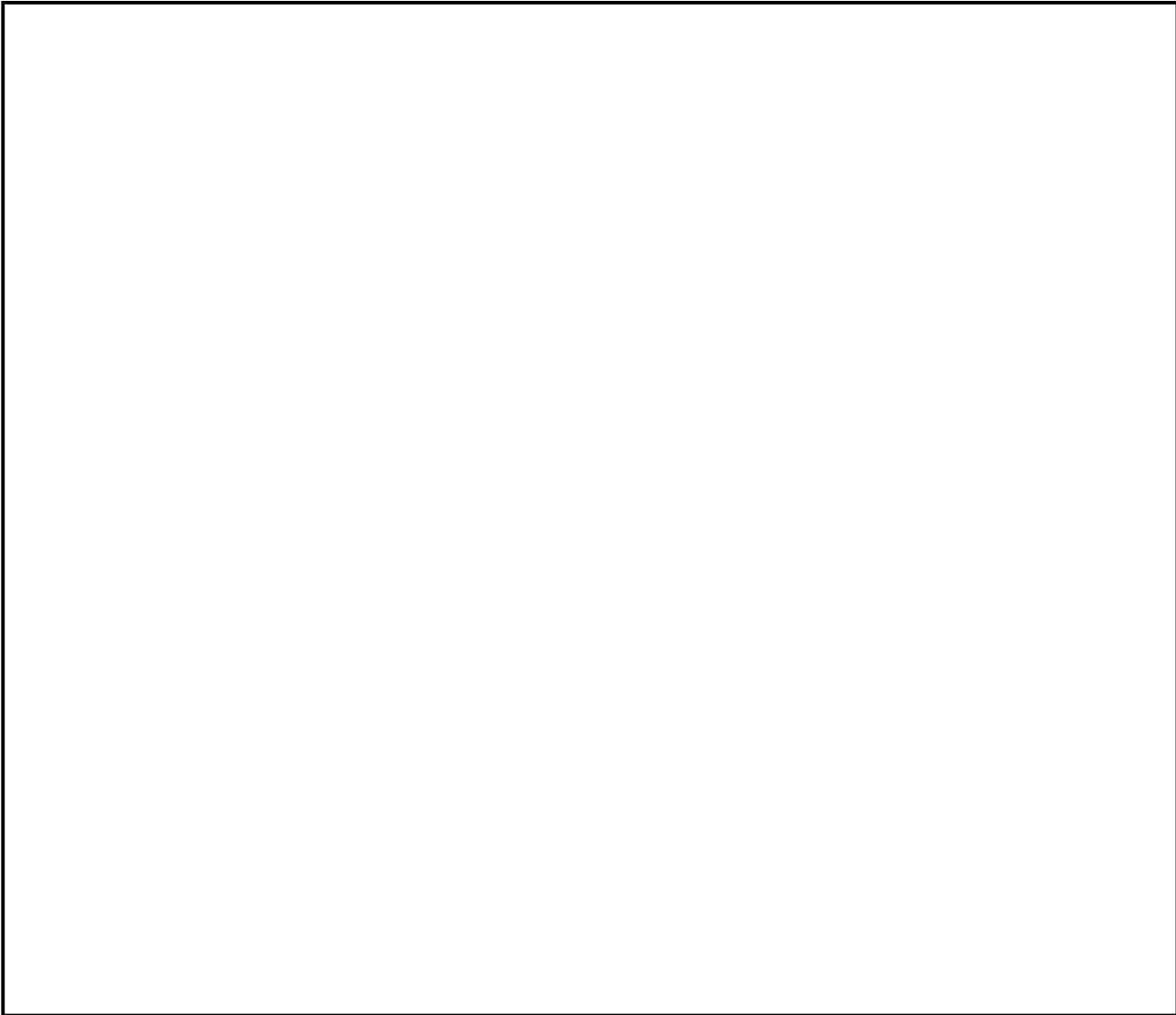
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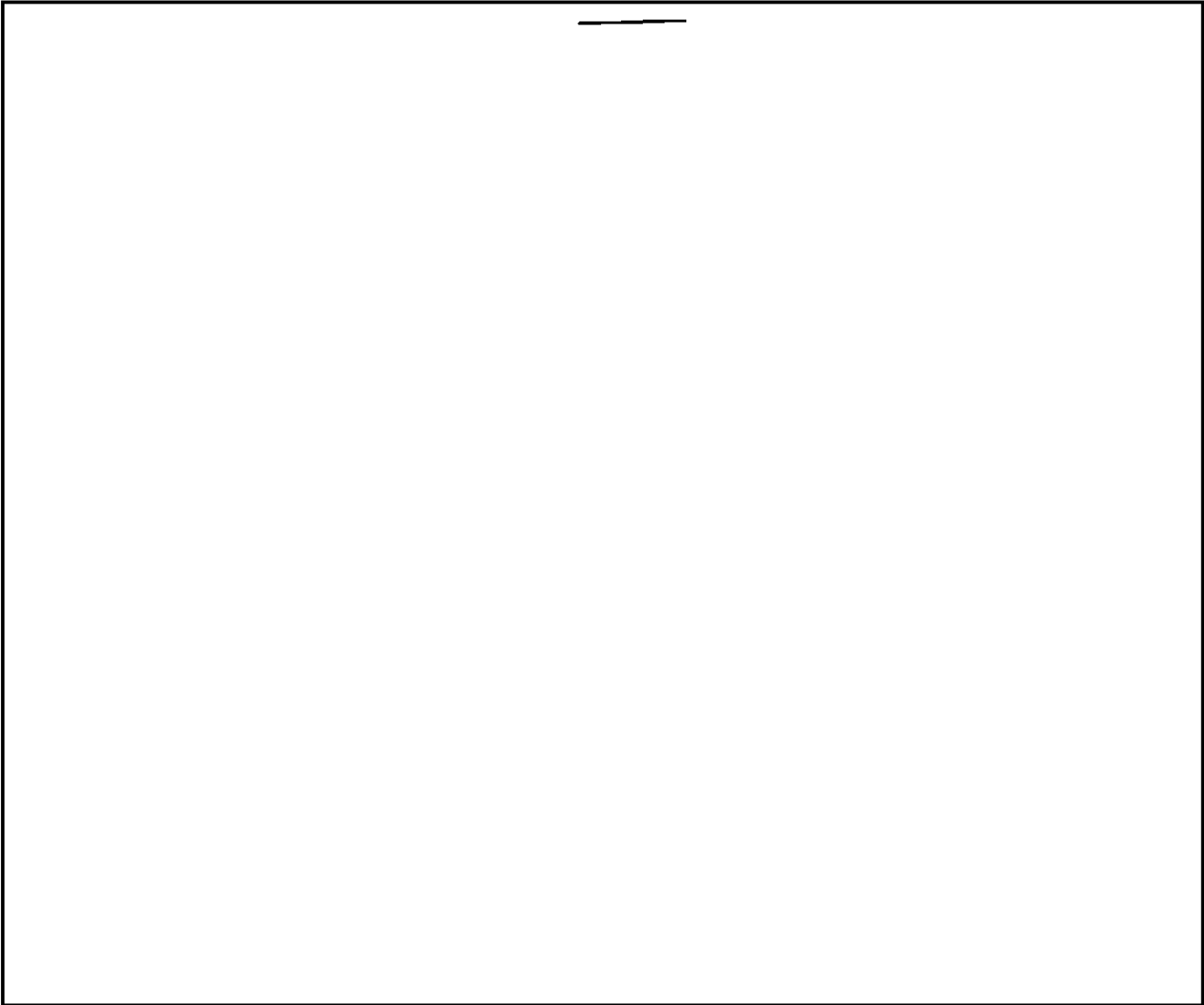
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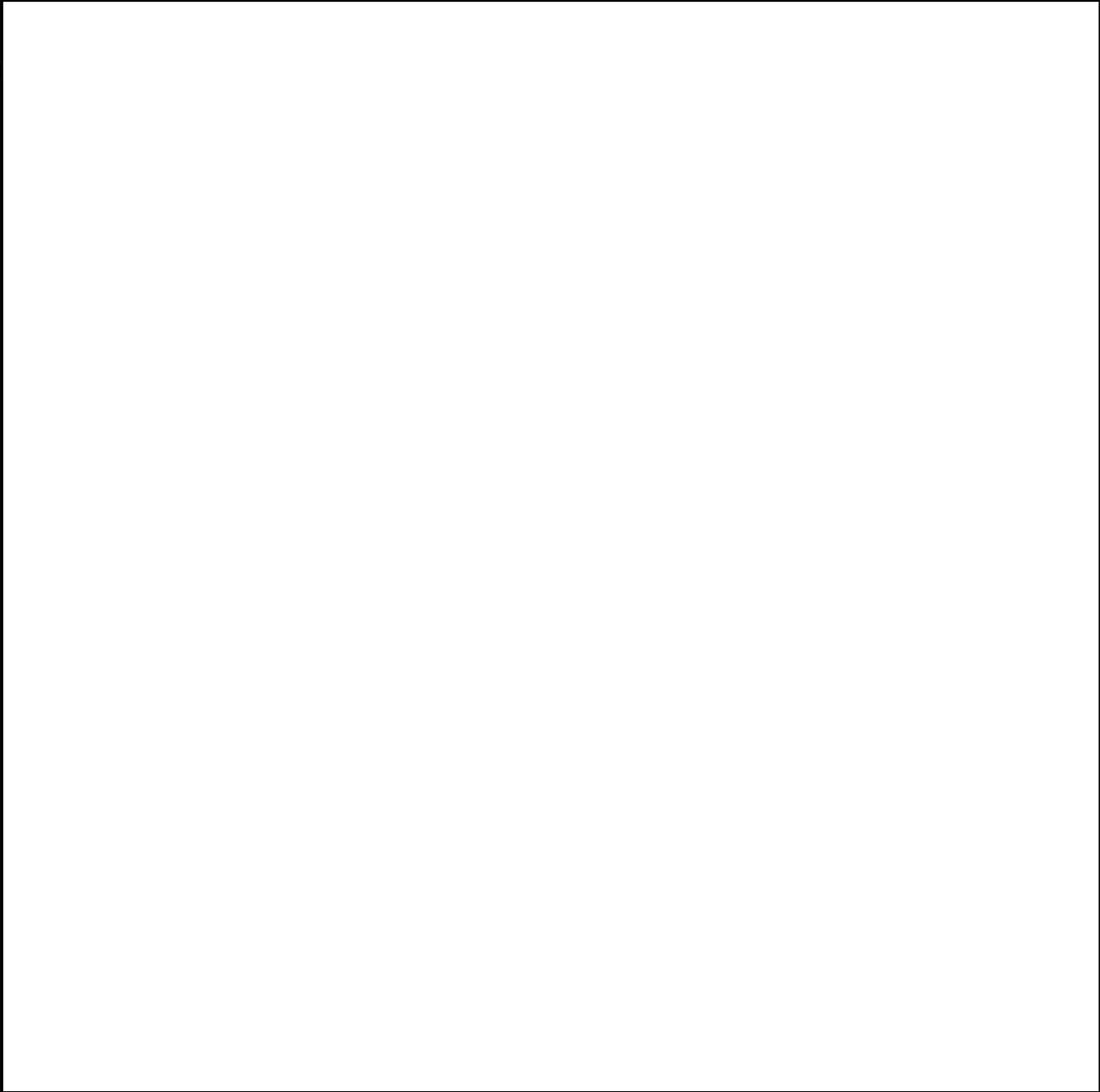


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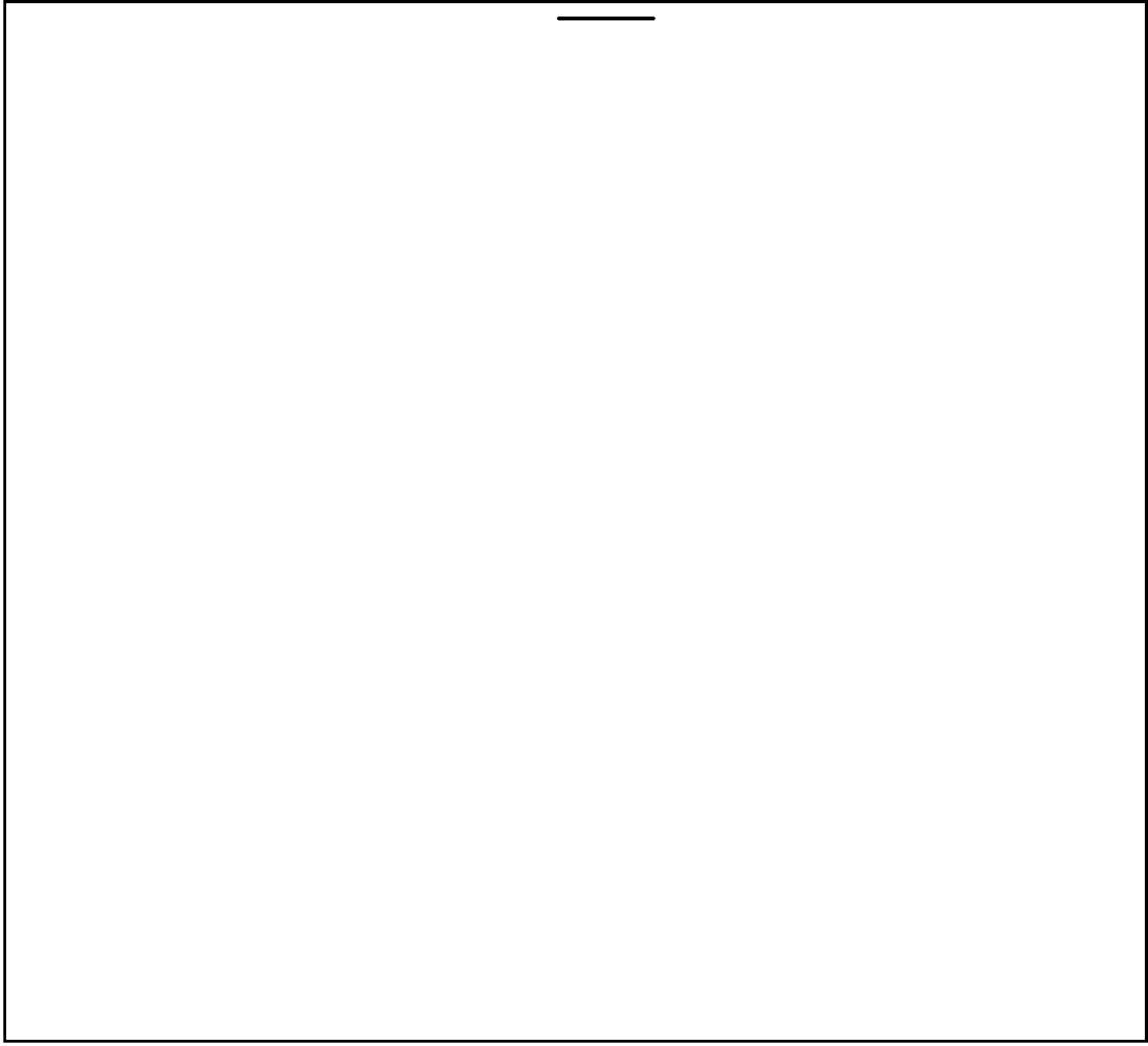
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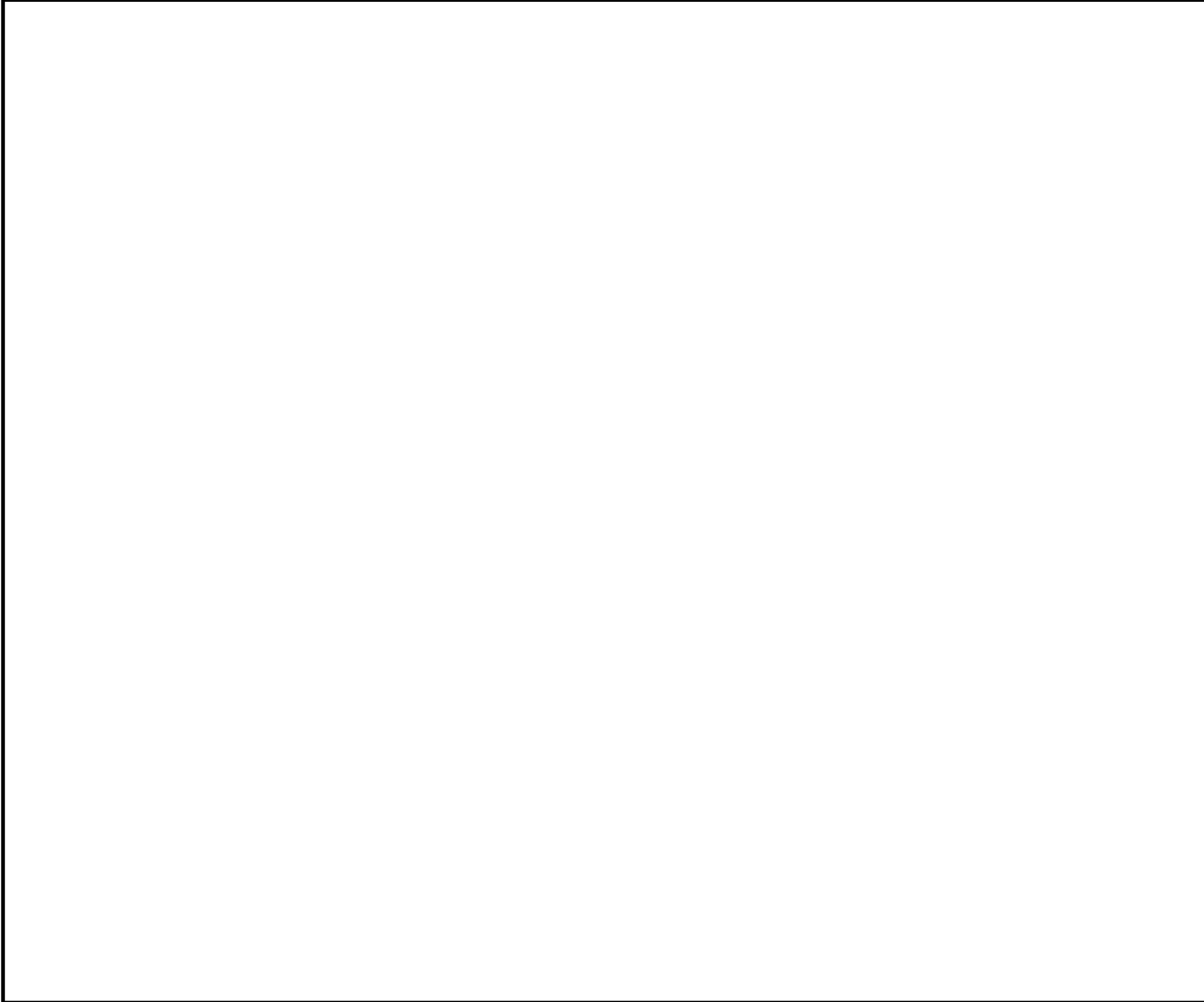


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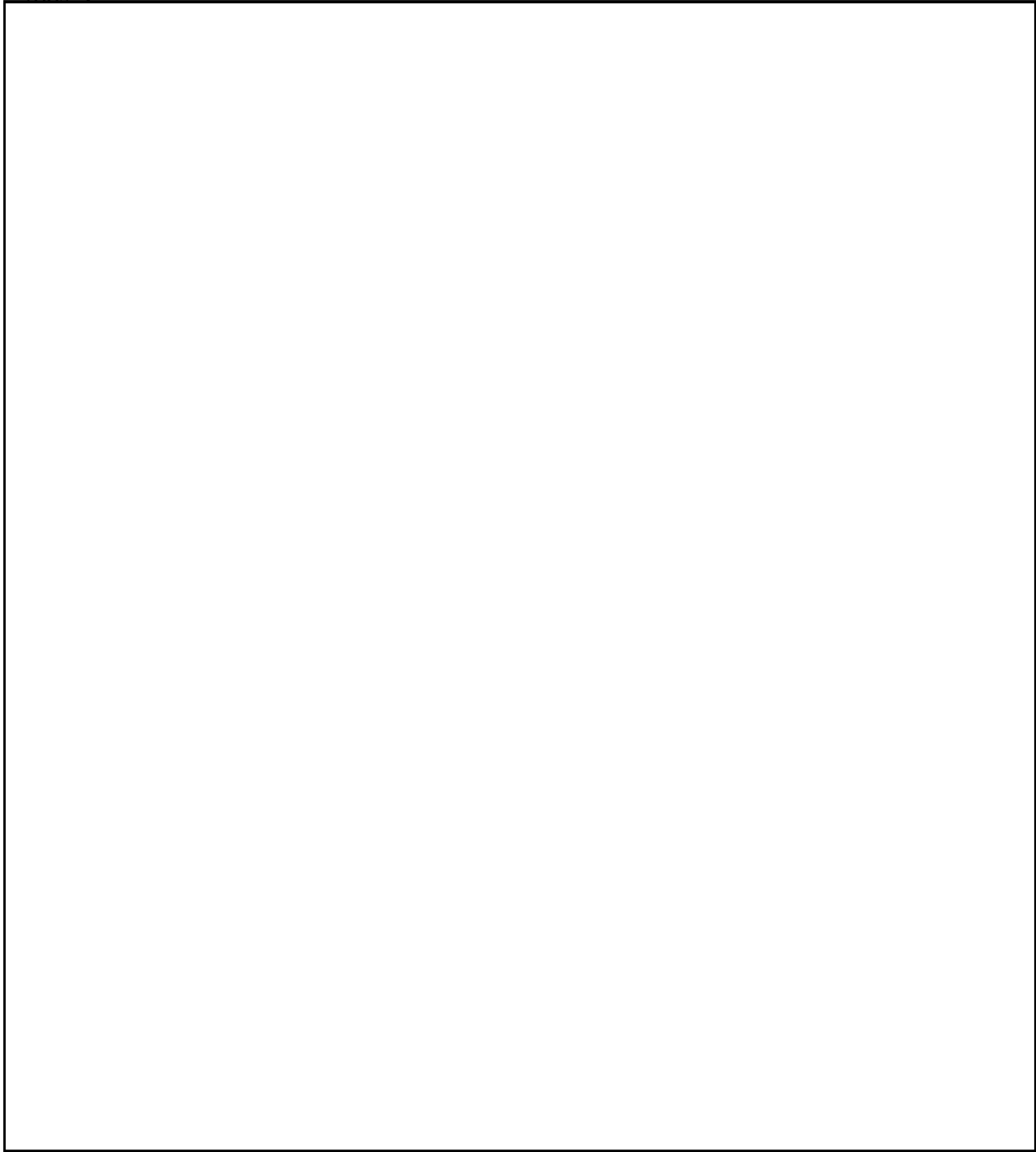
**IOBs FY 2005**



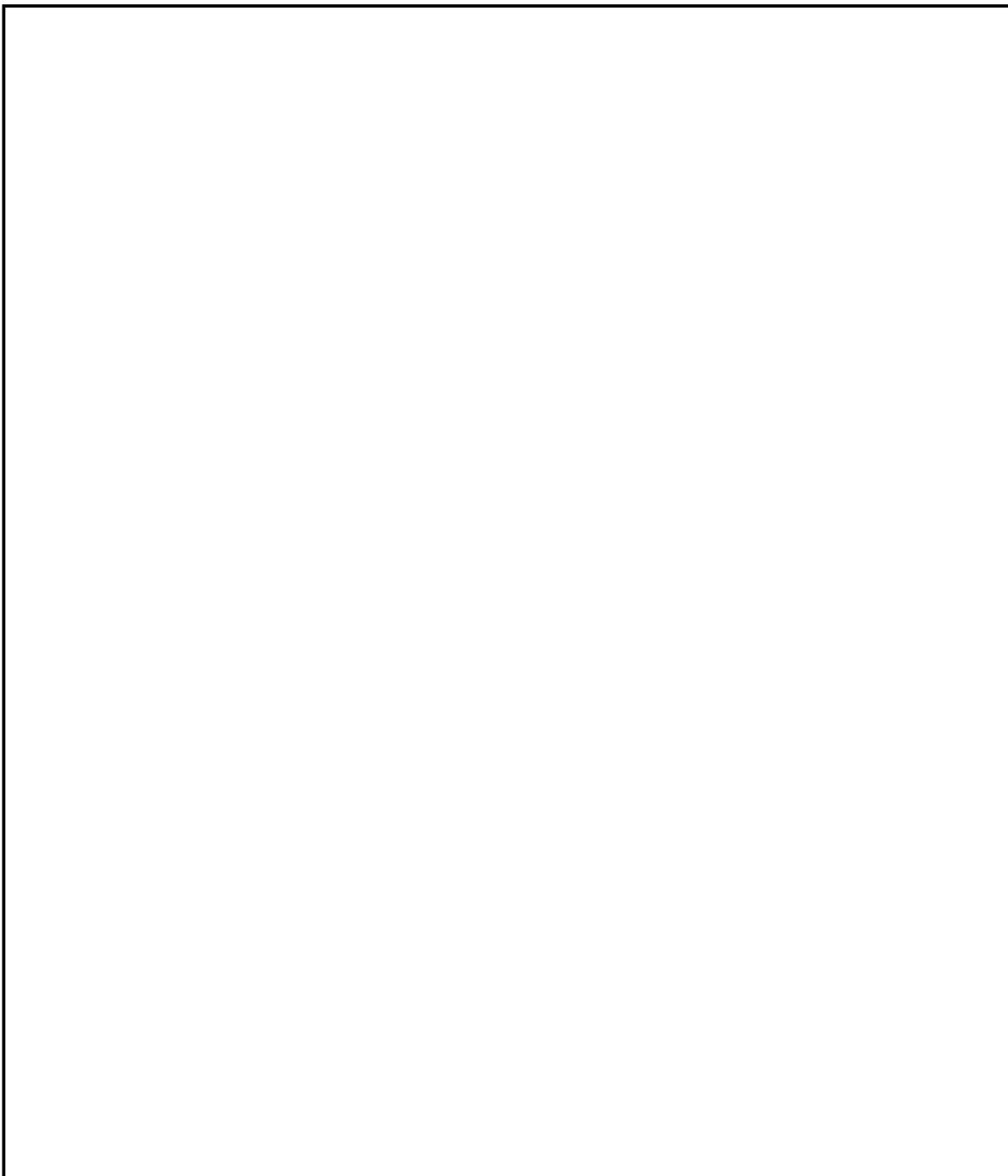
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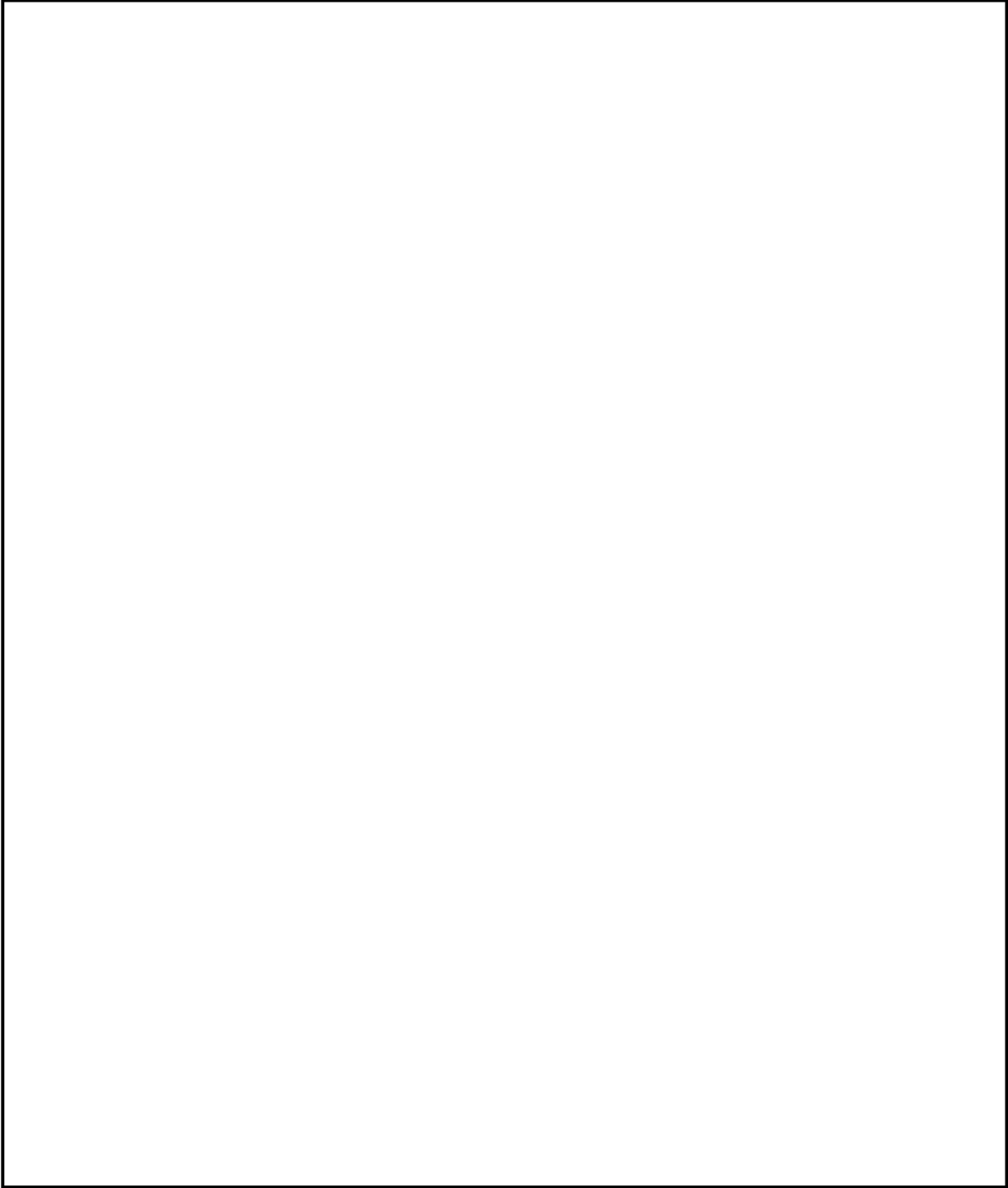


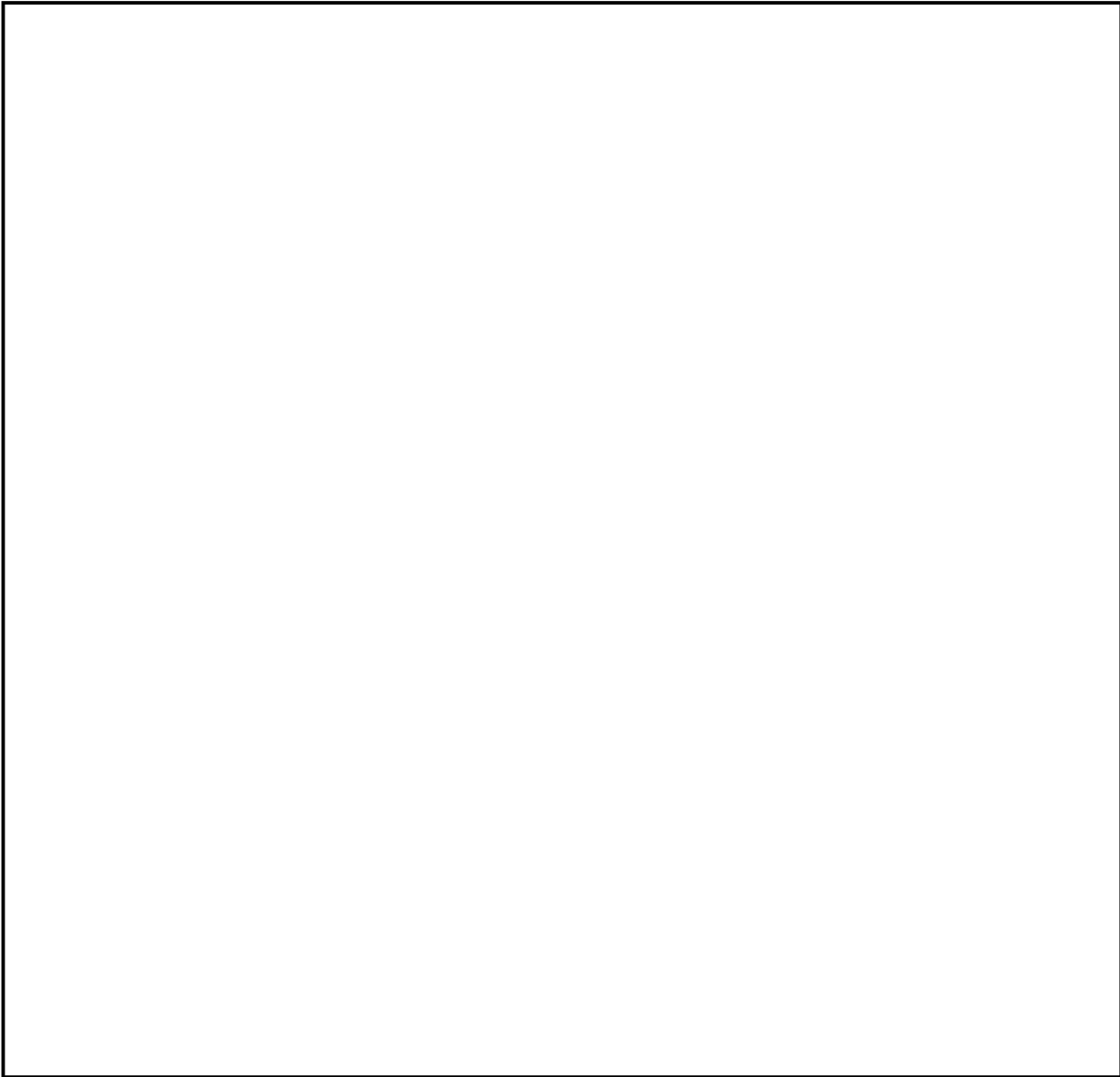
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DECLASSIFIED BY 65179 DMH/KSR/CE  
ON 08-21-2007

To: All Divisions From: General Counsel  
Re: 66F-HQ-A1247863 , 04/18/2002

(U) In addition to the foregoing, on a quarterly basis, each field office and FBIHQ division is required to submit to FBIHQ (Attn: IMU, INSD), an EC certifying that all employees of the office or division were contacted concerning the requirement to report possible IOB matters.

(U) ~~(S)~~ Reportable Matters. Examples of potential IOB matters which should be reported include:

a. (U) Investigation of persons or organizations before an investigation has been authorized. (See Part I, Section 1, NFIPM.)

(U) b. ~~(S)~~ Conducting a preliminary inquiry in excess of 120 days without an approved extension. (See Part I, Section 1-2.4, NFIPM.)

(U) c. ~~(S)~~ Failing to submit to the Headquarters substantive unit a 90-day and/or an annual letterhead memorandum (LHM) for each full investigation of a U.S. person within the periods prescribed by regulation. (See Section XI.C of the Attorney General Guidelines.)

(U) d. ~~(S)~~ Use of methods or techniques other than those authorized in the conduct of preliminary inquiries or full investigations. (See Sections III.B and C of the Attorney General Guidelines.)

e. (U) Initiating a form of electronic surveillance or a search without authorization from the Foreign Intelligence Surveillance Court, or failing to terminate an authorized surveillance at the time prescribed by the Court. (See 50 U.S.C. §§ 1805, 1824.)

f. (U) Failing to adhere to the minimization requirements or dissemination limitations prescribed by the FISA Court. (See 50 U.S.C. § 1806.)

(U) This list of examples is not all-inclusive of intelligence activities which may be deemed illegal or improper. The examples, however, do illustrate areas where training and field office supervision are essential.

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To: All Divisions From: General Counsel  
Re: 66F-HQ-A1247863 , 04/18/2002

(U) Assistance Available. Questions concerning this EC or other aspects of the IOB process may be addressed either to the National Security Law Unit, OGC at [redacted] or IMU, INSD at [redacted] or to Chief Division Counsel in the field offices.

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(U) No manual changes are required.

LEAD(s) :

Set Lead 1: (Adm)

ALL RECEIVING OFFICES

This communication should be made available to all FBI personnel upon receipt.

1 - [redacted] Rm. 7129  
1 - [redacted] Rm. 7129  
1 - [redacted] Rm. 7128  
1 - [redacted] Rm. 7427  
1 - [redacted] Rm. 7974  
1 - [redacted] Rm. 7837  
1 - [redacted] Rm. 7975  
1 - [redacted] 5223  
1 - Manuals Desk (Attn: [redacted])  
1 - NSLU IOB Library [redacted]

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/29/2001

To: Information Resources

Attn: [redacted]

From: Inspection

Office of Inspections, Inspection Management Unit

Contact: [redacted]

Ext. [redacted]

Approved By: [redacted]

Drafted By: [redacted]

Case ID #: 278-HQ-C1229736

Title: OPENING OF SUBFILES/CLOSURE OF SUBFILES  
INTELLIGENCE OVERSIGHT BOARD (IOB)

Synopsis: To request the opening/closure/consolidation of IOB subfiles.

Details: [redacted] Information Resources Division (IRD), is requested to:

(1) open subfiles for each specific IOB violation reported and assigned a number by the Inspection Management Unit (IMU);

(2) close the IOB field office/FBI Headquarters divisions subfiles, with consolidation of all IOB violations assigned a number in 2001, and located in these subfiles, to the newly created IOB violations subfiles;

(3) open subfiles for each calender year, starting with calender year 2001, for Quarterly Reports (QRs) sent to IMU;

(4) consolidate all 2001 QRs located in the main IOB file into the newly created QR subfiles.

As advised in the National Foreign Intelligence Program Manual, reports of potential IOB matters detected by field offices or FBI Headquarters (FBIHQ) divisions are to be reported to the IMU, INSD, by electronic communication (EC) within 14 days of the discovery of the possible violation. Presently the IMU assigns a number to each reported violation based upon the order it is received during the calender year. Each numbered violation is then recorded in a log maintained by IMU Management and Program Analyst [redacted]. Each document associated with a

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To: Information Resources From: Inspection  
Re: 278-HQ-C1229736, 10/29/2001

particular IOB violation, referencing it's assigned number, is then placed in the appropriate IOB field office or FBIHQ subfile.

This present method for filing does not allow for the efficient or ready retrieval of all documents associated with a particular violation, as documents from different IOB violations are crossed filed within each respective field office subfile. In addition, the QRs presently filed to the main IOB file have swelled this particular file to over 600 serials, resulting in an inability to easily withdraw for review QRs from any particular quarter. The establishment of new subfiles by specific IOB violations, and the creation of new Subfiles by year for QRs, will allow for the easy retrieval of this information.

To: Information Resources From: Inspection  
Re: 278-HQ-C1229736, 10/29/2001

LEAD(s):

Set Lead 1:

INFORMATION RESOURCES

AT WASHINGTON, DC

IRD, is requested to open, close, and consolidate subfiles as set forth in this EC.

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◆◆

**Memorandum**

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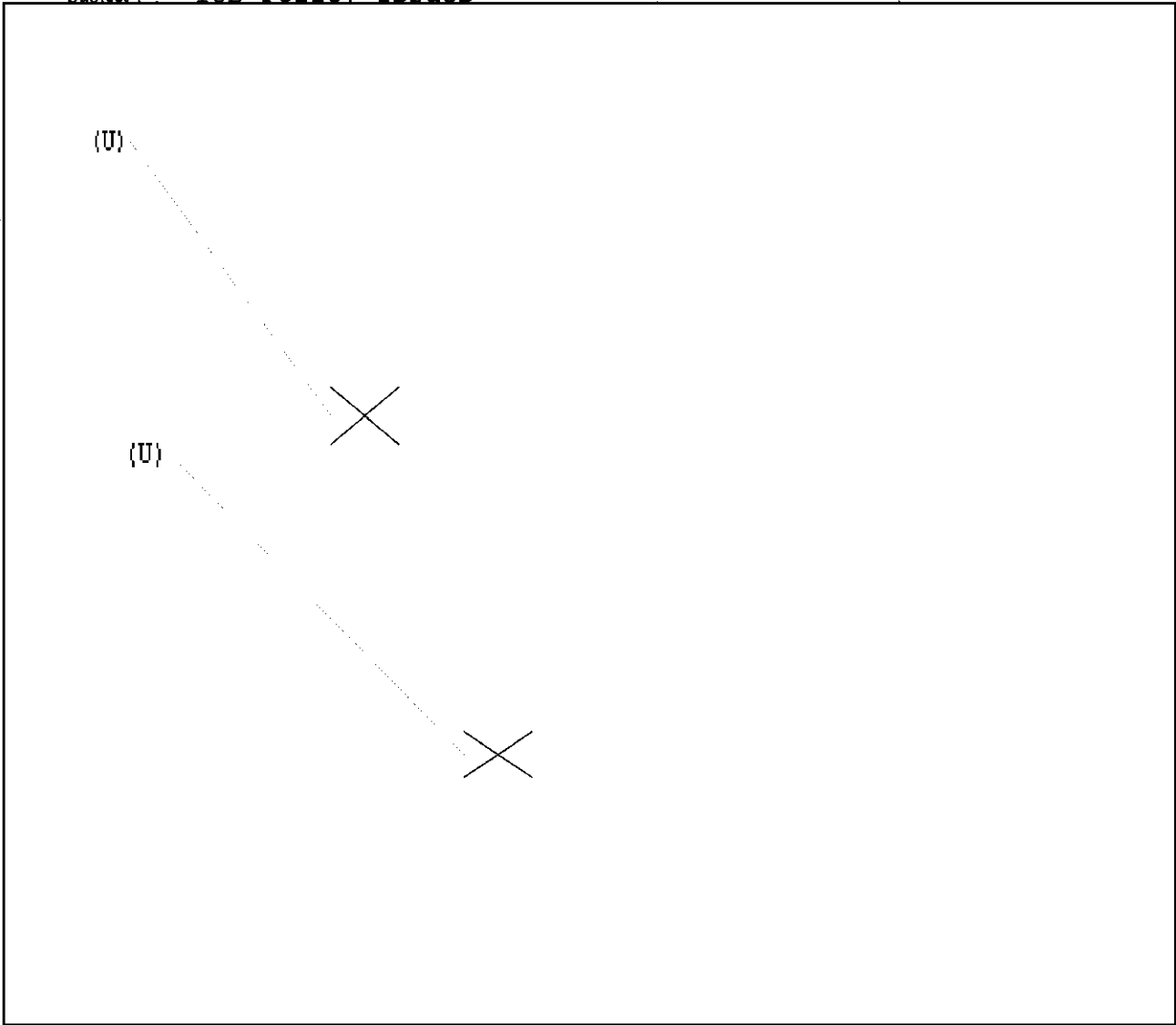
To : DGC Julie F. Thomas

Date 04/06/2006

From : AGC [Redacted]  
AGC [Redacted]

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Subject : IOB Policy Issues



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NSL VIO-24258

Memorandum from AGC [redacted] to DGC Julie F. Thomas  
Re: IOB Policy Issues, 04/06/2006

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(U) [redacted]  
[redacted]  
X

(U) [redacted]  
[redacted]  
X

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(U) [redacted]  
[redacted]  
X

(U) [redacted]  
[redacted]

~~SECRET~~

Memorandum from AGC [redacted] to DGC Julie F. Thomas  
Re: IOB Policy Issues, 04/06/2006.

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[redacted]

(U) [redacted]

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(U) [redacted]

[redacted]

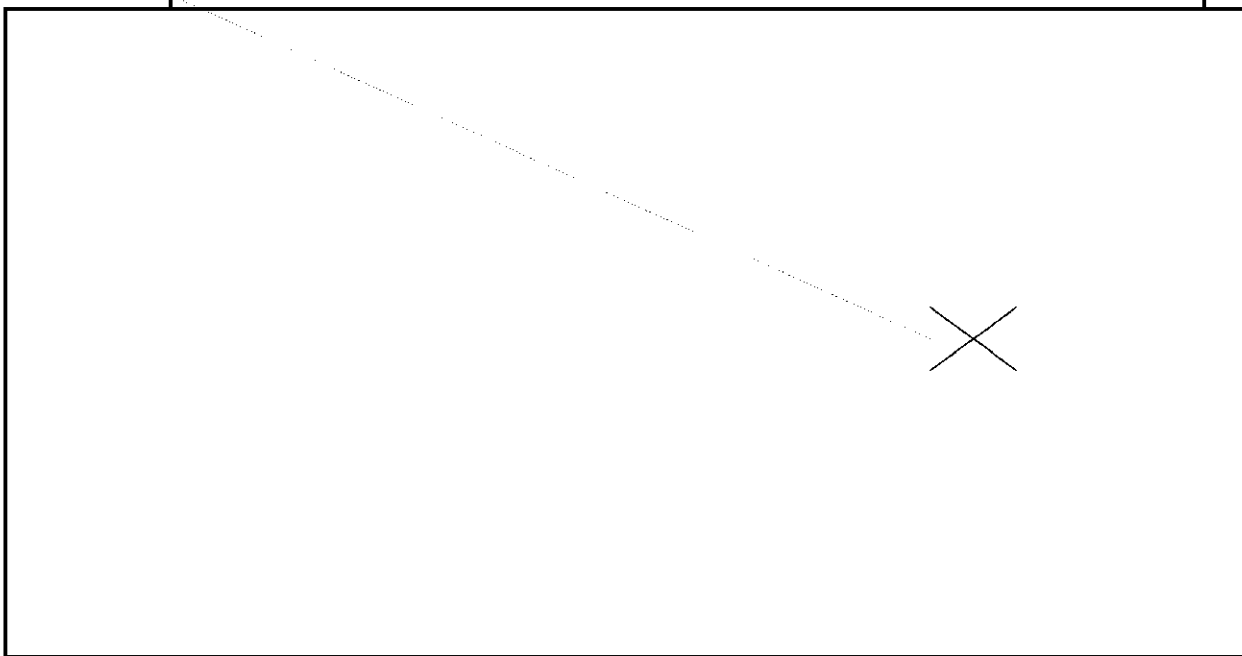
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Memorandum from AGC [redacted] to DGC Julie F. Thomas  
Re: IOB Policy Issues, 04/06/2006

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SECRET

Memorandum from AGC [redacted] to DGC Julie F. Thomas  
Re: IOB Policy Issues, 04/06/2006

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[redacted]

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[redacted]

(U)

[redacted]

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-5-

NSL VIO-24262

DATE: 08-21-2007  
CLASSIFIED BY 65179 DMH/KSR/cb  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-21-2032

[Redacted] (OGC) (FBI)

From: [Redacted] (INSP) (FBI)

Sent: Tuesday, October 25, 2005 6:53 AM

To: [Redacted] (OGC) (FBI) [Redacted] (OGC) (FBI)

Subject: We made it to the NY Times today.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

UNCLASSIFIED  
NON-RECORD

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**Tighter Oversight Of FBI Is Urged After Investigation Lapses**

The New York Times  
By Eric Lichtblau  
October 25, 2005

WASHINGTON, DC -- Civil rights advocates called on Monday for Congress to increase its oversight of the Federal Bureau of Investigation's surveillance of suspects in intelligence investigations, in light of newly disclosed records indicating that the FBI had violated the law.

But the bureau defended its record, saying it had been diligent in policing itself and in correcting lapses that it considered to be largely technical and procedural. The debate was prompted by a set of internal FBI documents made public on Monday that disclosed at least a dozen violations of federal law or bureau policy from 2002 to 2004 in the handling of surveillance and investigative matters. Expanding on that data, the bureau said on Monday that internal reviews had identified 113 violations since last year that were referred to a federal intelligence board. In several cases, the documents released on Monday showed, FBI agents extended investigations and surveillance operations for months without getting approval from supervisors or giving notification.

In another case, an FBI agent still on probation gained access to banking records without getting needed approval, in violation of federal privacy restrictions. In a separate episode, an agency outside the FBI, apparently the Central Intelligence Agency, was improperly allowed to conduct a physical search in the United States, without the target's consent, as part of a counterintelligence investigation. "New agent didn't understand/know rules," read a handwritten note related to one inquiry that was referred to the Intelligence Oversight Board for further action. While most of the cases appeared to be related to intelligence and national security investigations in field offices around the country, the bureau blacked out virtually all details about the exact nature of the investigations.

The documents were obtained through a public records act request by the Electronic

NSL VIO-24263



Privacy Information Center, a group that lobbies for greater privacy rights and civil liberties, and were first reported on Monday in The Washington Post. Officials at the privacy center said the documents suggested abuses of authority by the FBI under the expanded powers granted under the USA Patriot Act, the antiterrorism law that Congress is to consider extending in coming weeks. The privacy group said Congressional oversight committees had never been properly informed of the possible violations, and it called on Congress to exercise greater oversight. "These are instances of alleged abuse in domestic intelligence investigations by the FBI, and we consider the failure to report these issues to Congress to be a really serious one," said Marc Rotenberg, executive director of the privacy center.

But FBI officials said in interviews that few of the cases cited in the public records documents related directly to the bureau's expanded powers under the antiterrorism law. Internal reports of suspected violations have dropped since last year, the bureau said. It said the lapses cited in the internal reports reflected not an abuse of power, but rather an unfamiliarity by some agents with new protocols on intelligence investigations after the Sept. 11 attacks. Many agents were transferred to counterterrorism and national security investigations who had never worked on such cases before, and they were given new powers and procedures under both the antiterrorism law and changes in Justice Department guidelines on how investigations should be handled.

"You have a very steep learning curve," said John Miller, a spokesman for the FBI. "The rules changed in midstream, and agents have had to learn how to report these things out and where the lines are. This is probably something that will get better with experience and time, but right now, we're in a period of transition and people are learning."

~~SECRET~~

NSL VIO-24264

[Redacted]

Conduct Review Specialist  
Initial Processing Unit/IS/INSD  
Phone [Redacted]  
Room 11102

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**UNCLASSIFIED**

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IOB - Total Numbers for FY 2004 and FY 2005

	FY 2004		FY 2005	
	#	%	#	%
Total Potential IOBs		-		-
• Reported				
• Not Reported				
• Pending		-		

(S)

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ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

DATE: 08-30-2007  
CLASSIFIED BY: 65179 dmh/ksr/cb  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-30-2032

~~SECRET~~

Categories - Reported IOBs:

Category - IOBs	2004		2005	
	#	% of reported	#	% of reported
Reported errors in the use of FISA tools.				
• FBI Errors				
• Third-Party or Technical errors				
Reported FBI errors in the use of National Security investigative tools (i.g., mail covers, NSLs, and 2.5 authority).				
Reported Third-Party or Technical errors in the use of National Security investigative tools.				
Miscellaneous administrative errors resulting in unauthorized investigative activities (Reported and unreported).				
• Reported				
• Unreported				

(S)

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DATE: 08-30-2007  
CLASSIFIED BY 65179/dmh/ksr/cb  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-30-2032

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

IOB - Total Numbers for FY 2004 and FY 2005

	FY 2004	FY 2005
Total Potential IOBs		
• Reported		
• Not Reported		
• Pending		

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2003

Categories - Reported IOBs:

Category - Reported IOBs	2004	2005
1- FBI errors in FISA ELSUR and FISA PS.		
2 - FBI Error in the use of National Security investigative tools (i.e., mail covers and NSLs).		
3- Third-Party or Technical errors in the use of FISA ELSUR.		
4- Third-Party or Technical errors in the use of National Security investigative tools.		
5- Miscellaneous administrative errors resulting in unauthorized investigative activities.		

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Inspection -  since box (some 2002, 03-05)

2003-04 - so old no info to field

2005 - letter to FO

- no open investigations

2

OIG - Jeff Vasey (DAI)

Copy + sign off

Inspection EC to W/1 + something to FO (2005)

Conclusion - admin fault of provider performance issue (up to FO)

- AD or SAC

(U)

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authorization can be segregated from the data that was properly collected. As soon as this issue is resolved, OIPR will notify the Court about the incident. (S)

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(U) As a result of this incident, the Special Agent in Charge of the [redacted] Field Office has implemented a checklist of steps to ensure compliance with FISA orders and has instructed agents to call carriers to remind them of the expiration dates of orders. (S)

(U) II. IDENTIFYING AND CORRECTING SYSTEMIC PROBLEMS (S)

b5

(U) A. Identifying the Systemic Problems (S)

The [redacted] compliance incidents discussed in this report can be broken into six broad categories. In three of those categories, an FBI error led to the unauthorized collection.

Category 1: The FBI conducted collection activities before or after the date specified in the order issued by the Court. [redacted] incidents fall into this category. (U)

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(U) Category 2: The FBI utilized an unauthorized surveillance technique against a target against whom the Court had authorized other types of surveillance. (S)

(U)

Categories 1 and 2 generally describe a failure to correctly understand or follow an order issued by the Court. (S)

(U) Category 3: The FBI conducted surveillance of the wrong party or the wrong location either because the agent was not aware that the target had moved or the agent did not verify information contained in the application for surveillance. [redacted] incidents fall into this category. (U)

(U)

Category 3 generally describes a failure to properly verify information while preparing an application for surveillance or effecting surveillance authorized by the Court. A total of [redacted] of the compliance incidents resulted from Category 1-3 errors. (U)

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(U) In the remaining three categories, either a third party made an error or there were technical problems beyond the FBI's control that caused the unauthorized surveillance. (S)

(U) Category 4: There were technical and logistical problems involved in setting up surveillance of e-mail accounts. [redacted] incidents fall into this category. (S)

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Page 18

(U)

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Category 5: A third party, such as a telephone company, conducted surveillance of the wrong party or conducted surveillance outside of the Court-authorized surveillance period. [redacted] incidents fall into this category. (S)

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Category 6: Miscellaneous administrative errors resulted in unauthorized surveillance. [redacted] incidents falls into this category. (U)

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(U) 1. Incidents Described in the [redacted] Semi-Annual Report Covering the Period [redacted] (U)

(U) In [redacted] incidents initially reported in the [redacted] Semi-Annual Report covering the period [redacted] the FBI made an error; a telephone company made [redacted]

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Category 1: [redacted] the FBI continued a surveillance beyond the expiration date of the Court order.<sup>2</sup> (U)

Category 2: [redacted] the FBI used an unauthorized surveillance technique. (U)

Category 3: [redacted] the FBI continued surveillance of an unrelated party after the target had moved from the location being surveilled.<sup>4</sup> (U)

Category 4: There were [redacted] related to technical and logistical problems involved in setting up e-mail surveillance. (S)

Category 5: [redacted] in which a third party, the telephone company, made an error by initiating a wire communications surveillance of a new telephone number being used by the new occupants of the target's former residence.<sup>5</sup> (S)

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Category 6: There were [redacted] involving miscellaneous administrative errors. (U)

DECLASSIFIED BY 65179 dmh/kar/cb  
ON 08-30-2007

<sup>2</sup> See 99-1-3. (U)

<sup>3</sup> See 99-1-1; 99-1-5. (U)

<sup>4</sup> See 99-1-2. (U)

<sup>5</sup> See 99-1-4. (U)

## Intelligence Oversight Board (IOB) Matters

The President, by Executive Order 12334 of December 4, 1981, established the President's Intelligence Oversight Board (PIOB). On September 13, 1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. The IOB is charged with reviewing activities of the Intelligence Community and informing the President of any activities that are in violation of the Constitution, the laws of the United States, Executive Orders, or Presidential Directives. Among its other responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

In this regard, the Board receives and considers reports of Inspectors General and General Counsels of the Intelligence Community (including the FBI) concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to the Constitution, U.S. laws, Executive Orders, Presidential Directives, or other guidelines or regulations approved by the Attorney General, in accordance with Executive Order 12333. Counsel for Intelligence Policy, Office of Intelligence Policy and Review (OIPR), Department of Justice, has further maintained that the words "may be unlawful" in the Executive Order should be interpreted to include violations of agency procedures if such provisions were intended to protect the individual rights of a United States person, unless they involve purely administrative matters.

All FBI employees have an obligation to report potential IOB matters to the Office of the General Counsel (OGC) and the Inspection Division within 14 days of discovery of the potential error or violation. In addition to the foregoing, on a quarterly basis, each field office and FBI Headquarters division is required to submit to OGC a document certifying that all employees of the office or division were contacted concerning the requirement to report potential IOB matters.

OGC reviews the reports to determine if the potential error or violation requires notification to the IOB based on the requirements of E.O. 12863 and the guidance previously provided by the IOB and OIPR. If OGC determines that the reported matter requires notification to the IOB, OGC prepares the necessary correspondence to the IOB setting forth the basis of the notification. OGC will also notify OIPR and the FBI's Inspection Division. If OGC determines that the reported matter does not require notification to the IOB, OGC will maintain a copy of the report of the potential IOB matter together with a statement



concerning the basis for the determination that notification was not required for possible review by the Counsel to the IOB.

If the IOB violation involves the unintentional acquisition of information under the Foreign Intelligence Surveillance Act (FISA), that information is sequestered with OIPR for eventual destruction by the Foreign Intelligence Surveillance Court pursuant to Section 106(i) of the Act. If the IOB violation involves the unintentional acquisition of information unrelated to a FISA court order, the FBI will take appropriate remedial action and take steps to obtain the information correctly.

## Intelligence Oversight Board (IOB) Matters

The President, by Executive Order 12863 of September 13, 1993, established the Intelligence Oversight Board as a standing committee of the President's Foreign Intelligence Advisory Board. The Board is charged with reviewing activities of the Intelligence Community and informing the President of any activities that any member believes are in violation of the Constitution, the laws of the United States, Departmental guidelines, Executive Orders, or Presidential Directives. Among its other responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

In this regard, the Board will receive and consider reports of Inspectors General and General Counsels of the Intelligence Community concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive Orders, Presidential Directives, or other guidelines or regulations approved by the Attorney General, in accordance with Executive Order 12333, if such provisions were intended to protect the individual rights of a United States person. Counsel for Intelligence Policy, Office of Intelligence Policy and Review, Department of Justice, has further maintained that the words "may be unlawful" in the Executive Order should be interpreted to include violations of agency procedures issued under the Executive Order, unless they involve purely administrative matters.

The following attached materials provide guidance regarding IOB matters: (1) February 10, 2005 electronic communication (EC) advising of the changes to the IOB procedures; (2) March 18, 2005 EC implementing the new changes in the National Foreign Intelligence Program Manual (Section 2-56) and Manual of Administrative Operations And Procedures (Part 1, 1-22); (3) Executive Order (EO) 12334 (December 4, 1981) establishing the President's Intelligence Oversight Board (predecessor to the current Board); (4) EO 12863 (September 13, 1993) establishing the current President's Foreign Intelligence Advisory Board; and (5) booklet explaining the purpose and implementation of a macro that may be used to simplify the reporting process of potential IOB matters.

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**FEDERAL BUREAU OF INVESTIGATION**

Precedence: ROUTINE

Date: 12/27/2006

To: [Redacted]

Attn: ASAC [Redacted]  
CDC [Redacted]  
SSA [Redacted]  
SA [Redacted]

Counterintelligence

Attn: CD-2A, SSA [Redacted]

Inspection

Attn: IIS, CRS [Redacted] b2

From: Office of the General Counsel  
NSLB/CILU/Room 7947

Contact: AGC [Redacted] b6  
b7C

Approved By: Thomas Julie F. [Redacted]

Drafted By: [Redacted]

Case ID #: (S) 278-HQ-C1229736-VIO (Pending) b2  
b7E

(S) 62P-[Redacted]-A89455-IOB - 14

Title: (S) INTELLIGENCE OVERSIGHT BOARD b2  
MATTER 2007 [Redacted]

Synopsis: (S) It is the opinion of the Office of the General  
Counsel (OGC) that this matter is not reportable to the  
Intelligence Oversight Board (IOB) as the information was  
acquired by third party error. Rather, it should be maintained  
in the control file for periodic review by Counsel to the IOB and  
the [Redacted] Field Office [Redacted] should ask [Redacted] whether the  
unrequested information should be returned or destroyed and  
appropriate documentation should be made in the file. b2  
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(U) ~~Derived From : G-3~~  
~~Declassify On: 12/27/2006~~

Administrative: (S) This electronic communication (EC) contains  
information from the referenced [Redacted] EC to OGC reporting a  
potential IOB matter.

(U) Reference: (S) 278-HQ-C1229736-VIO Serial 1825  
(S) 62P-[Redacted]-A89455-IOB, Serial 7 b2  
b7E

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To: [redacted] From: Office of the General Counsel  
Re: 278-HQ-C1229736-VIO, 12/27/2006

(U)

Details: ~~(S)~~ By EC dated 11/06/2006, [redacted] requested OGC review the facts of the captioned matter and determine whether it warranted reporting to the IOB. As explained further below, in our opinion, the FBI is not required to report this matter to the IOB as it was third-party error.

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~~(S)~~ On 07/18/2006, [redacted] drafted an NSL pursuant to 18 U.S.C. § 2709 seeking name, address, length of service and electronic communication transactional records, to include existing transaction/activity logs and all email header information (not to include message content and/or subject fields) for three email addresses. The NSL was served by the [redacted] Division to [redacted] via email.

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~~(S)~~ On 10/05/2006, [redacted] received the results of the NSL to [redacted] via email. On 10/17/2006, a preliminary review revealed that seven of the email transactions provided by [redacted] included information labeled [redacted] which appeared to be possible subject line content or similar information not requested by the FBI. As such, the CDC was given the information for sequestering. Additionally, this information was not utilized by the case agent in any analysis nor was it documented in the case file.

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(U) The President, by Executive Order (EO) 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by EO 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of EO 12863 mandates that the Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to EO or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence

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To: [redacted] From: Office of the General Counsel  
Re: 278-HQ-C1229736-VIO, 12/27/2006

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Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U) ~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. [redacted] (S)

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(U) ~~(S)~~ Here, during an authorized investigation,<sup>1</sup> the FBI properly served an NSL on internet service provider [redacted]. In response to the properly served NSL, [redacted] provided the FBI [redacted] information which appeared to be possible subject line content or similar information not requested by the FBI. This is an error on the part of [redacted] a third party, which resulted in unintentional acquisition of unrequested information by the FBI. As such, it is not reportable to the IOB. It should be noted that the FBI's response in receiving the unsolicited material was commendable. Upon learning that [redacted] provided information beyond the scope of the NSL, the FBI sequestered the excess information, did not utilize it in any analysis and did not document it in the case file. The only remaining step to be

(S) <sup>1</sup> (U) A preliminary investigation in this matter was initiated on 11/15/2004 and extensions were properly authorized until 11/12/2006; the investigation was converted to [redacted]

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To: [redacted] From: Office of the General Counsel  
Re: 278-HQ-C1229736-VIO, 12/27/2006

performed is for [redacted] to contact [redacted] and ask whether the  
unrequested information should be returned or destroyed and  
appropriate documentation should be made in the file.

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(U) Based upon these facts, the internet provider's  
mistake is not reportable to the IOB as the FBI has not acted  
unlawfully or contrary to Executive Order or Presidential  
Directive. A record of this decision should be maintained in the  
control file for future review by the Counsel to the IOB.

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To: [redacted] From: Office of the General Counsel  
Re: 278-HQ-C1229736-VIO, 12/27/2006

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LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) INSD should retain a record of the report of the potential IOB matter, as well as a copy of the OGC opinion concluding that IOB notification is not required, for three years for possible review by the Counsel to the IOB.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

[redacted]

AT [redacted]

(U) The [redacted] Field Office should contact [redacted] and ask whether the unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

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cc: Ms. Thomas

[redacted]

IOB Library

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**FEDERAL BUREAU OF INVESTIGATION**

**Precedence:** ROUTINE

**Date:** 11/06/2006

**To:** Inspection  
General Counsel

**Attn:** IIS, Room 11861  
**Attn:** NSLB, Room 7975

[Redacted]

**Attn:** ASAC [Redacted]  
CDC [Redacted]

**From:** [Redacted]

**Contact:** SA [Redacted]

**Approved By:** [Redacted]

**Drafted By:** [Redacted]

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO -1825  
(S) [Redacted] -IOB -7

**Title:** (U) SA [Redacted]  
SSA [Redacted]  
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

**Synopsis:** (S) To report possible IOB error.

(U) (S) ~~Derived From : G-3~~  
~~Declassify On: 11/06/2031~~

**Details:**

(S) 1. [Redacted]

(S) 2. [Redacted]

(S) 3. Possible IOB Error:

(S) [Redacted]

(S) 4. Description of IOB Error (including any reporting delays).

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(U) To: Inspection From: [redacted]  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 11/06/2006

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(U) ~~(S)~~ On 07/18/2006, a National Security Letter (NSL) requesting the name, address, length of service, and electronic communication transactional records. [redacted]

[redacted] (not to include [redacted])

(S) [redacted]

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[redacted] was prepared and approved in accordance with the Attorney General Guidelines. The NSL was served by the [redacted] Field Office and on 10/05/2006, [redacted] provided the results of the NSL to the [redacted] Field Office via email.

(U) ~~(S)~~ On 10/17/2006, a preliminary review of the results of the NSL revealed [redacted]

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[redacted] This information was not utilized by the case agent in any analysis nor was it documented in the case file.

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(U) To: Inspection From:   
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 11/06/2006

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LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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NSL VIO-24281

DECLASSIFIED BY 65179 DMH/KSR/cb  
ON 08-20-2007

ICMLM006

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02/12/07  
15:36:57

2/12/07

View Lead, then press Enter

(U)

Case ID . . . . . : 278-HQ-C1229736-VIO (S)

Serial . . . . . : 2086

Status . . . . . : ASSIGNED

Lead Number. . . : 3

Precedence. . . . . : ROUTINE

Lead Type. . . . . : ACT

Office . . . . . : [Redacted]

Squad. . . . . : CI1

At . . . . . : [Redacted]

Assigned To . . . . . : NFIP

Date : 01/26/2007

Previously Assigned :

Date :

Set By . . . . . : D9 [Redacted]

Set Date . . . . . : 01/25/2007 Time : 12:45PM

Deadline Date . . . . . : 03/26/2007 Time : 05:00PM

(U) The [Redacted] Field Office should contact [Redacted] and ask whether the unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

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Command . . . > ..... +  
F1=Help, F2=Text, F3=Exit, F4=Prompt, F7=Bkwd, F8=Fwd, F11=NextPg, F12=Cancel, F21=Case

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FEDERAL BUREAU OF INVESTIGATION  
FOIPA  
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