Exhibit A

The Economist

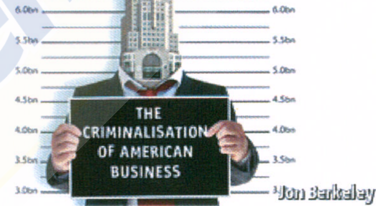
On American business, Chinese, population, Los Angeles, Nigeria, tropical forests, Europe, interns

Letters to the editor

Sep 13th 2014 | From the print edition
Letters are welcome via e-mail to letters@economist.com (mailto:letters@economist.com)

Probes Reporter™

Financial negligence



SIR – Regarding "The criminalisation of American business (http://www.economist.com/news/leaders/21614138-companies-must-be-punished-when-they-do-wrong-legal-system-has-become-extortion) " (August 30th), a deep flaw exists in American and British common law when it comes to wrongdoing at companies. The common law does not apply the doctrine of negligence to economic wrongs. You can be liable for unintentionally injuring or killing someone in an industrial accident or on the road, but not for unintentionally destroying an economy.

If a crime or tort of financial negligence existed, many of the wrongdoers in companies whom you claim were "extorted" would have gone to jail or lost everything in civil actions. But as there is no law against economic negligence, your alleged victims of extortion did not have to show that they exercised reasonable care, only that they did not intend to do wrong. Most probably did not much care whether they were being reasonable or doing wrong because they were making so much money. Even so, although most had been careful in what they had said, they were afraid that relentless prosecutors, such as New York's Preet Bharara, might dig up evidence of wrongful intent that might sway a jury. So they settled.

If economic negligence existed as a legal doctrine, they would have settled much earlier, in much greater numbers, and for incomparably larger amounts. And they would have lost their own money, not just shareholders' money. Far from complaining of extortion, business leaders should be thanking whatever gods they recognise for the exemptions in law which require only good faith, not reasonableness, and the absence of economic negligence that applies to the standards of professionalism and responsibility that lawyers and doctors must meet every day.

Jay Dratler
Emeritus professor of intellectual property
University of Akron School of Law
Akron, Ohio

SIR – We can get a police report the day after Justin Bieber is arrested, but the Securities and Exchange Commission consistently denies the public access to reports that summarise what took place in its closed investigations. Since 2000 we have filed thousands of Freedom of Information Act (FOIA) requests with the SEC seeking investigative records on public companies.

At any given time we typically know of about 100 public companies involved in continuing undisclosed SEC probes. We are always denied access to the one report the SEC has prepared that summarises why the investigation was opened, the work performed and the conclusions reached. Those reports that are disclosed provide the scantiest of detail.

If the SEC simply complied with the FOIA, transparency would be improved. Investors in capital markets would benefit as regulators and the regulated would be held more accountable. This includes those overseeing the funds to bail out Mr Bieber.

John Gavin
Chief executive
Probes Reporter
Plymouth, Minnesota

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* SIR – As you point out, corporate prosecutions in America are generally settled with a wad of money, an appointed monitor and a raft of new compliance procedures ("A mammoth guilt trip (http://www.economist.com/news/briefing/21614101-corporate-america-finding-it-ever-harder-stay-right-side-law-mammoth-guilt) ", August 30th). The additional compliance measures can stifle innovation and cost a lot. The worst problem, however, is that they don't work.

There is no evidence to support the belief that more rules lead to less rule breaking. We set out to assess whether adding more controls to an existing compliance program made any difference. After collecting data from 1.1 million employees at 150 multinational companies we found it has no effect. This means that the vast majority of time and effort expended under the terms of government settlements is wasted.

However, we have identified two specific elements of management culture that reliably reduce illegal activity. First, do employees feel comfortable speaking up about misconduct in the workplace? And second, do employees trust that management will take action against wrongdoers? Where the answer is yes to these questions, there is less misconduct. Where the answer is no, fraud and illegal activity thrives.

These factors are easily measurable and they can be isolated down to the division and business unit—which is important since misconduct is usually concentrated in one or two areas within a company. In spite of this, settlements continue to focus almost exclusively on layering on new controls and oversight. Instead, they should focus on isolating and changing toxic management cultures within the company.

Daniel Currell
Executive director
CEB
Arlington, Virginia

Chinese characters

SIR – It has become tiresome to see the continual misrepresentation of the Chinese script in your periodical ("Bad

FAR FROM THE MADDING CROWD
NOW PLAYING

May 28, 2006

Deafened by the S.E.C.'s Silence, He Sued

By GRETCHEN MORGENSON

ON May 18, Caremark Rx Inc., a pharmaceuticals services concern, surprised many investors when it disclosed that a day earlier federal prosecutors and the Securities and Exchange Commission had notified the company that they were scrutinizing how it awarded stock options to company insiders. Caremark's shares tumbled 6.8 percent on the news.

Some investors, however, found the regulators' interest in Caremark not so surprising. As early as last January, SEC Insight, an independent research firm, warned its clients that regulatory risks might be brewing at the company — noting that federal authorities had refused to release records on Caremark because doing so could interfere with enforcement activities. SEC Insight reiterated its warning on March 20.

The stock of Caremark, which is based in Nashville, has been a top performer in recent years. But shareholders who heeded SEC Insight's warnings and sold their stock dodged a significant loss.

In a world where truly independent stock research is a valuable and rare commodity, SEC Insight is even more unusual. The firm makes its calls after poring through correspondence and other internal S.E.C. documents it secures by filing requests under the Freedom of Information Act. Ever since John P. Gavin, a former money manager and chartered financial analyst, founded SEC Insight six years ago in Plymouth, Minn., he has prided himself on its ability to sniff out regulatory trails like a corporate bloodhound.

During the last two years, however, Mr. Gavin says, his snooping and his ability to send early warning signals to clients have been stymied by an unlikely adversary: the S.E.C. itself. The agency, overshadowed by aggressive prosecutors like Eliot Spitzer, the New York attorney general, has gone to great lengths recently to reassert itself as Wall Street's top cop. But the S.E.C. has made it nearly impossible for Mr. Gavin to round up documents it once routinely provided to his firm. Mr. Gavin's experience, he says, suggests that the agency, which bills itself as the investor's advocate, is less than forthcoming about what it actually finds at the companies it polices.

"In this post-Enron era, as the S.E.C. demands record levels of disclosure from public companies, it's a shame that the agency itself has become disclosure-challenged," Mr. Gavin said.

It is a troubling paradox, Mr. Gavin says. The S.E.C., which requires public companies to make full disclosure of all meaningful facts, has stopped granting most of Mr. Gavin's requests for regulatory correspondence. For his part, Mr. Gavin has sued the agency in federal district court in Minnesota, seeking to compel compliance with federal disclosure laws.

The suit aims to force the S.E.C. to turn over records to Mr. Gavin on 12 companies, which the S.E.C. has so far flatly refused to do. The judge overseeing the case has given the S.E.C. a deadline of Thursday to prove that it has reviewed the documents that Mr. Gavin requested on six of those companies. The agency has appealed that ruling, arguing that the task is too onerous.

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"We are defending the action to protect our ability to complete these law enforcement investigations, and to protect investors by enabling us to get relief where appropriate, including disgorgement of ill-gotten gains," said Richard M. Humes, associate general counsel at the S.E.C. He declined to comment further.

Mr. Gavin, 44, is not the only one complaining that the S.E.C. is keeping investors in the dark. An analysis by 10k Wizard, an online search engine for S.E.C. filings, indicates that the agency's two-year-old pledge — to publish all correspondence between it and public companies and mutual funds about their accounting and other practices — remains puzzlingly unfulfilled. As a result, SEC Insight says, shareholders everywhere are missing out on information that could help them make astute investment decisions.

Even as the S.E.C. plays hardball with Mr. Gavin, costing his three-person firm more than $100,000 in legal fees, Christopher Cox, the S.E.C. chairman, recently noted his agency's crucial role in providing investors with that most basic of needs: information. Testifying on May 3 before the financial services committee of the House of Representatives, Mr. Cox said: "When it comes to giving investors the protection they need, information is the single most powerful tool we have. It's what separates investing from roulette."

YET since August 2004, the commission has failed to provide documents relating to 1,700 of SEC Insight's requests under the Freedom of Information Act. Under the law, such requests are supposed to be answered in 20 days, but in most cases the S.E.C. says it is still looking for documents more than a year after SEC Insight requested them.

Lucy A. Dalglish, executive director of the Reporters Committee for Freedom of the Press, said she was dubious that the S.E.C. found it too onerous to carry out its responsibilities. "I'm sure it is very expensive and it is a burden and they are trying to draw a line in the sand because they don't like to do this," she said. "But so what? The law is the law and the Freedom of Information Act says that they have to comply with this. It is inconceivable that all the information about some of these companies is off-limits. That just flat-out doesn't pass the smell test.

"Probably an undercurrent here is that the S.E.C.'s internal documents are earning this guy a living. But if they are truly upset about this guy making money off their records — and they are not their records, they are public records — then they can do a better job of posting them on their Web site."

At least, Mr. Gavin says, the S.E.C.'s enforcement division provides bare-bones responses to some of his requests. The agency typically sends him letters saying that there are no investigative materials, or, when it denies requests, citing a need for investigative secrecy. It was just such a denial that caused Mr. Gavin to conclude in March that Caremark Rx might face regulatory risk.

A Caremark official declined to comment beyond saying that the company is cooperating with the government inquiries.

Mr. Gavin's firm acknowledges in each report it publishes that it does not know what an investigation might involve and cannot predict whether it will lead to an enforcement action. Moreover, he tells his clients that S.E.C. investigations are fact-finding exercises and do not mean that a company or individual has done anything wrong. But any question about a company's practices, especially when the S.E.C. is the one raising it, can be an important data point for investors. And it is the S.E.C.'s flat-out refusal to supply correspondence with public companies that Mr. Gavin said he finds disturbing. These communications, known as comment letters, have been enormously useful in revealing potential problems at companies in the past, he says. The letters have pointed to aggressive accounting practices and pension problems, for example, long before those problems hit the headlines.

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In October 2001, the S.E.C. wrote to Computer Associates, the Long Island-based software company now known as CA Inc., inquiring about potential accounting problems. Sanjay Kumar, the former CA chief executive, and other top managers have pleaded guilty to an accounting fraud that inflated the company's results in 1999 and 2000 and cost investors hundreds of millions in stock losses.

The S.E.C. addressed its letter to Ira Zar, the company's chief financial officer, and provided it to Mr. Gavin's firm in March 2002, less than a month after Mr. Gavin made his document request. Mr. Zar pleaded guilty to fraud at CA in 2004.

The S.E.C. made 15 points in the letter, mostly about CA's accounting. One-third of the issues raised by the S.E.C. involved CA's revenue recognition practices; these became central to the government's subsequent case against CA executives.

CA's shares traded around $33 when the letter was written. The stock rose to around $38 in January 2002, but news media reports about possible accounting irregularities and investigations at the company pushed the shares down to around $16 in February of that year. In March, when CA's stock was at $18.50, SEC Insight issued an alert to its clients about the company. By July, CA's share price had fallen to under $8 as the company's troubles mounted.

The speedy S.E.C. response to Mr. Gavin's CA request contrasted sharply with a request he made in 2004 related to the Andrew Corporation, a maker of communications equipment. Although the S.E.C. has twice told Mr. Gavin that there are no investigative records pertaining to the company, he has waited almost two years for other correspondence he has requested. Last September, the S.E.C. said its contractor would send the correspondence to Mr. Gavin's firm; those documents have not yet arrived.

The S.E.C. has not posted any comment letters regarding Andrew on its Web site, even though Andrew noted in a regulatory filing last December that it had paid its auditor $68,300 during 2005 to respond to a comment letter from the S.E.C.

When the S.E.C. announced in June 2004 that it would post all comment letters, it said the change would give investors access to the information in them. If a company asked for confidential treatment, the S.E.C. said, it could exclude only that information from publicly posted letters.

Alan Beller, former director of the S.E.C.'s division of corporation finance, said a year ago that the agency believed " it is appropriate to expand the transparency of our comment process by making this information available, free of charge, to an unlimited audience."

Last week, the S.E.C. had posted on its Web site 2,224 letters it had sent to companies. Most were from 2004 and 2005, but there were also a few from this year. Even so, there are some 23,000 public companies and roughly 8,000 mutual funds in the United States, and watchdogs like Mr. Gavin say that the Web site's postings do not reflect that reality. Many of the postings are different letters written to the same company.

AN analysis by 10k Wizard raises questions about the S.E.C.'s progress. Combing through regulatory filings back to May 2005, 10k Wizard found that 212 companies had voluntarily disclosed receipt of an S.E.C. comment letter. (Such disclosures are not required under securities laws.) Matching those companies with the S.E.C.-posted correspondence showed only 21 companies' letters on the agency Web site.

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"We were very excited when the S.E.C. announced that they were going to make these comment letters available," said Martin X. Zacarias, chief executive of 10k Wizard. "We'd gotten requests from all of our clients for that information."

But Mr. Zacarias said his excitement faded soon after the program began. "We were disappointed with the initial batch and with subsequent letters," he said. "We started to suspect that we weren't getting a complete availability of letters." After his firm conducted an analysis of comment letters for this article, Mr. Zacarias said the study "confirmed what we suspected."

Many letters that appear on the S.E.C. Web site relate to small, obscure companies of little interest to investors. Among the letters written in 2005, for example, about 20 percent went to companies whose shares either trade on the OTC Bulletin Board or no longer trade in any organized market. Of the roughly 470 companies whose communications with the S.E.C. were posted on its Web site from April 2005 to April 2006, 46 percent have market values of less than $100 million. Only 20 percent have market values over $1 billion.

John W. White, director of the S.E.C.'s division of corporation finance, said: "A few years ago in response to a deluge of F.O.I.A. requests for S.E.C. review and correspondence from several commercial providers that planned to resell the information, we adopted a plan to instead publicly post that information on Edgar so that it would be readily available to all investors free of charge. We have now resolved the technical hurdles of posting the information on Edgar, and we have committed our resources to getting correspondence arising since August 2004 posted as soon as possible so that it will be readily available to all investors free of charge. We expect a significant number of new postings in the coming months."

Mr. Gavin first saw the value of S.E.C. documents when he was an analyst at American Express in the late 1990's. In 1999, Arthur Levitt, then the S.E.C. chairman, announced that the agency was sending letters to 150 companies that it suspected were using aggressive accounting practices. That led to Mr. Gavin's first Freedom of Information Act request, for the names of the 150 companies. The agency denied it.

Mr. Gavin then requested information about Network Associates, a technology company whose shares American Express owned on behalf of its clients. The request generated a 12-page comment letter from the previous year. "The letter was comprehensive," he said. "It challenged them on dates when they reclassified things, challenged them on an acquisition, questioned them about restructuring costs."

Days later, Network Associates warned that it would miss its earnings forecast. "I said, 'Hey, we can get this cool stuff from the S.E.C.,' " Mr. Gavin recalled. "We started doing it inside Amex and I left about a year later and started SEC Insight."

The firm's success was anything but immediate. By July 2001, a year after it opened shop, SEC Insight had only one customer. Then Mr. Gavin made a few good calls, including one about a company named Enron and its chief executive, Kenneth L. Lay. A report from SEC Insight dated Oct 23, 2001, a month before Enron collapsed, began: "We believe Enron's S.E.C. troubles are far less welcome and potentially far more serious than Ken Lay and the company lets on."

Mr. Gavin's clients consist of mutual funds and hedge funds. He charges upward of $50,000 a year for his service and keeps a "focus list" of companies that reflects the information he receives from his requests.

Two types of companies are on the list. The first, which the firm calls "troubled," are those where it has found signs of "compelling S.E.C. or other investigative activity" that may not have been disclosed to investors. Less problematic are

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those companies that SEC Insight advises investors to "monitor," because of possible regulatory risk.

SEC Insight put The New York Times Company on its "monitor" list in April after the S.E.C. partially blocked the firm's request late last year for information about the company. Mr. Gavin speculated that the response could relate to the S.E.C.'s examination of newspaper industry circulation practices that began in 2004. Mr. Gavin currently tracks 32 "troubled" companies as well as 160 on his "monitor" list, which also includes the Tribune Company, Dow Jones & Company and the Gannett Corporation.

Spokeswomen for The New York Times Company and Gannett said that the companies had given the S.E.C. all the information it requested two years ago and had since heard nothing from the agency. A spokesman for the Tribune Company said that it did not comment on speculation. Dow Jones did not return a call seeking comment.

Mr. Gavin said he first encountered problems with the S.E.C. in 2002. The agency, he said, gradually stopped providing information on company investigations, refusing even to state that an inquiry prevented it from responding. So Mr. Gavin sued the commission in 2004. As a result, he said, the S.E.C. started providing investigation letters again but stopped turning over comment letters, which the agency had been freely issuing before the suit.

Rachel Rosen, a lawyer at Cundy & Paul in Bloomington, Minn., who represents Mr. Gavin, described the S.E.C.'s actions as counterproductive. "By not releasing this information they are asserting that it is going to interfere with their investigations," she said, "but we think their actions are going to do more harm for investors than good."

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THURSDAY, APRIL 18, 2002 (Copyright (c) 2002, Dow Jones & Company, Inc.)

Bearish Scrivener Hunts SEC Inquiries

BY MARK MAREMONT AND WILLIAM M. BULKELEY

A WEEK AGO TODAY, shares of International Business Machines Corp. tumbled 5.4% on news that the Securities and Exchange Commission had opened an inquiry into Big Blue.

The report -- delivered by the newsletter SEC Insight Inc. -- wiped $8 billion from IBM's market value that day. It was only after regular trading hours that investors learned a fuller truth from the SEC: The inquiry, opened Feb. 15, was closed six weeks later with the commission taking no action.

The IBM incident was the latest in a number of market-rattling lightning bolts from SEC Insight and its publisher, former securities analyst John P. Gavin. From his base in Plymouth, Minn., near his home, Mr. Gavin has become an important font of bearish information in a skittish market. By ferreting out previously undisclosed data from the SEC, he often uncovers questionable corporate accounting, making him a force in the post-Enron era, when nothing roils investors more than news of bookkeeping issues.

His reports have provided early warnings to investors about the SEC's interest in particular companies. But his journalistic techniques, which don't include calling the companies he is writing about, can sometimes lead to an incomplete picture, prompting complaints that SEC Insight is allied with short sellers, whose trading strategies work when a stock declines.

SEC Insight "is a valuable tool," says Marc Cohodes, a principal at Rocker Partners in San Francisco, an SEC Insight client whose hedge fund often shorts stocks. "It's helpful to see what questions the SEC is asking, and to know what the hot-button issues are at these companies."

But Gary Helmig, an analyst with SoundView Technology Group who recommends IBM, says SEC Insight's report on Big Blue was laden with "speculation and innuendo" on top of the basic facts about the SEC probe. "Its purpose is to make negative news for people who short the stock," Mr. Helmig says. "I'm not sure of its value added to society." IBM declined to comment on SEC Insight. Its stock bounced back some after the SEC said the probe had ended, but at $84.81 remains well below the $89.01 on the day before SEC Insight's report.

Mr. Gavin started SEC Insight in late 2000, after a stint at American Express Financial Advisors Inc., where he used the same technique he relies on today -- blitzing the SEC with requests under the Freedom of Information Act seeking copies of correspondence between SEC staffers and companies.

As part of its regular review of corporate filings, the SEC often sends companies written comments and questions, receiving replies within a few weeks. Such correspondence typically isn't made public, but can provide insight into the SEC's concerns.

The most intriguing situations occur when the SEC rejects one of Mr. Gavin's requests, citing an exemption that allows it to withhold information compiled for law-enforcement purposes. Mr. Gavin typically puts out an alert on the company involved, noting that the SEC's enforcement arm may be investigating. Mr. Gavin always hedges such reports, making it clear that the SEC may be withholding information for other reasons.

In one notable success, Mr. Gavin in December alerted clients to be wary of Calpine Corp., based on correspondence that indicated the SEC was questioning the San Jose, Calif., energy firm about disclosure practices. He followed up on Feb. 6 with a warning that the SEC might be probing Calpine, after the commission refused a fresh request for Calpine-related documents by citing the law-enforcement exemption.

The same day as the February report, Calpine confirmed the SEC had, indeed, contacted it, and asked it to revise some disclosures. Calpine's shares fell 22% that day. Similarly, SEC Insight in October put out an alert on Take-Two Interactive Software Inc., a maker of videogames, citing four letters from the SEC to the New York company that the newsletter said raised "red flags" about its accounting practices. In February, the software firm restated seven quarters of results and said the SEC had begun a probe.

An SEC spokeswoman declined to comment on SEC Insight. But some SEC insiders say the FOIA process can yield misleading information. In one case, according to a person close to the situation, Mr. Gavin put out a report implying that a company was being investigated, after a FOIA request was blocked based on the law-enforcement exemption. In fact, this person says, the company's name came up in an inquiry about another firm, and was itself a victim.

Mr. Gavin says he doesn't call the companies in advance for comment because they couldn't tell him much under SEC requirements for broad disclosure, and if they issued a news release "that would destroy my franchise." He does publish comments from companies that call him after his reports are issued.

Mr. Gavin rejects the assertion that he is allied with short sellers, saying any big investor is free to subscribe. He says several clients who were sure VeriSign Inc.'s accounting was "dirty" asked him to submit a FOIA request on the Mountain View, Calif., Internet-security firm. In February, he wrote that the SEC's response revealed "no investigations, nothing meaningful" on VeriSign. "If we were tools of the shorts, we wouldn't have issued that report," Mr. Gavin says.

After struggling financially for most of his first year in business, Mr. Gavin says he now is cash-flow positive, and has about 30 paying clients, mostly hedge funds and big institutional investors. He won't reveal what he charges, but clients say an annual subscription ranges from about $30,000 to $50,000, depending on the level of service. SEC Insight also sells individual documents to law firms.

Subscribers to SEC Insight's premium service can request FOIA

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searches on companies of their choice. But such a request doesn't get a client an early look at the results; Mr. Gavin sends his information to all clients at the same time. To avoid conflicts of interest, SEC Insight has a policy that prohibits employees from trading in a company's stock from the time a FOIA comes back until 60 days after publication of any report in his newsletter. (Mr. Gavin just hired his first full-time employee.) Mr. Gavin says nearly all his personal wealth is in mutual funds.

Richard W. Shea Jr., principal at Vardon Capital Management LLC, a New York hedge fund focused on consumer stocks, says he uses SEC Insight "as a check on management's credibility" in stocks he owns or is shorting.

Last week's SEC Insight report on IBM was unusual, because the newsletter was able to state with certainty that the securities watchdog had begun a "preliminary inquiry" on a particular date. According to Mr. Gavin, that surprising bit of information was contained in a letter from the SEC's office that handles FOIA requests, which denied him access to new IBM-related correspondence.

People familiar with the matter say the letter was a slip-up by the SEC, which is instructed not to be so specific about enforcement inquiries.

Christi Harlan, an SEC spokeswoman, says the response to SEC Insight's FOIA didn't state that the IBM inquiry had been closed. Because of the incorrect information and the stock activity, the SEC broke with its normal policy of refusing to comment and announced that the inquiry had occurred but had been closed.

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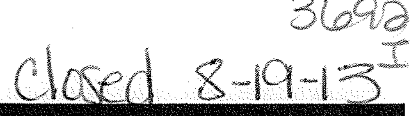
Exhibit B



SEC DIVISION OF ENFORCEMENT

Case Closing Report

As of: 08/14/2013

Matter No.: FW-03692-A **Matter Name:** Citigroup, Inc.

The undersigned has been designated by the Director of the Division of Enforcement to exercise delegated authority to terminate and close all investigations authorized by the Commission pursuant to Section 20 of the Securities Act of 1933 [15 U.S.C. 77t], Section 21 of the Securities Exchange Act of 1934 [15 U.S.C. 78u], Section 18 of the Public Utility Holding Company Act of 1935 [15 U.S.C. 79r], Section 42 of the Investment Company Act of 1940 [15 U.S.C. 80a-41], and section 209 of the Investment Advisers Act of 1940 [15 U.S.C. 80b-9].

I hereby close this case, pursuant to delegated authority.

David Peavler

Signature

David Peavler
Associate Regional Director

Title

8/15/13

Date

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2736

Office of FOIA Services

Exhibit C

July 17, 2014

Mr. J. Patrick Gavin

PO Box 47331
Plymouth, MN 55447

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request Nos. 14-00005-REMD

Dear Mr. Gavin:

This is in final reference to your letter dated April 4, 2014, appealing the denial of investigative records concerning Multi-Fineline Electronix Inc. By letter dated April 4, 2014, the Office of General Counsel remanded your FOIA appeal to this office for further consideration.

After further review, access is granted to the closing report, excluding the name of a staff member and the narrative portion of the report (three pages), under Exemptions 5, 6 and 7(C). Access is also granted to a no action letter dated February 26, 2014. Copies of the releasable records are enclosed.

The opening report, the narrative portion of the closing report, and a disposition checklist were prepared in anticipation of litigation, form an integral part of the predecisional process, and contain advice given to the SEC or senior staff by the SEC's attorneys, it is protected from release by the attorney work-product, deliberative process and/or attorney-client privileges embodied in FOIA Exemption 5.

The names of SEC staff named in the records are also protected from release under FOIA Exemptions 6 and 7(C). Release of this information could subject the employees named to harassment from the public in the performance of their official duties.

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I am the deciding official with regard to this adverse determination. With respect to the withheld records and information, you have the right to appeal my decision to our General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(d)(5) and (6). Your appeal must be in writing, clearly marked "Freedom of Information Act Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

Send your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2736, Washington, D.C. 20549, or deliver it to Room 1120 at that address. Also, send a copy to the SEC Office of the General Counsel, Mail Stop 9612, or deliver it to Room 1120 at the Station Place address.

If you have any questions, please contact Diane White of my staff at whitedi@sec.gov or (202) 551-8313. You may also contact me at foiapa@sec.gov or (202) 551-7900.

Sincerely,

Dave Henshall
FOIA Branch Chief

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3 Full Pages of Case Closing Recommendation (Below) Redacted by SEC

SEC DIVISION OF ENFORCEMENT

Case Closing Report

As of: 02/24/2014

Matter No.: LA-04362-A **Matter Name:** Multi-Fineline Electronix, Inc.

The undersigned has been designated by the Director of the Division of Enforcement to exercise delegated authority to terminate and close all investigations authorized by the Commission pursuant to Section 20 of the Securities Act of 1933 [15 U.S.C. 77t], Section 21 of the Securities Exchange Act of 1934 [15 U.S.C. 78u], Section 18 of the Public Utility Holding Company Act of 1935 [15 U.S.C. 79r], Section 42 of the Investment Company Act of 1940 [15 U.S.C. 80a-41], and section 209 of the Investment Advisers Act of 1940 [15 U.S.C. 80b-9].

I hereby close this case, pursuant to delegated authority.

(b)(6),(b)(7)(C)

Signature

Associate Regional Director

Title

~~February~~ March 3, 2014

Date

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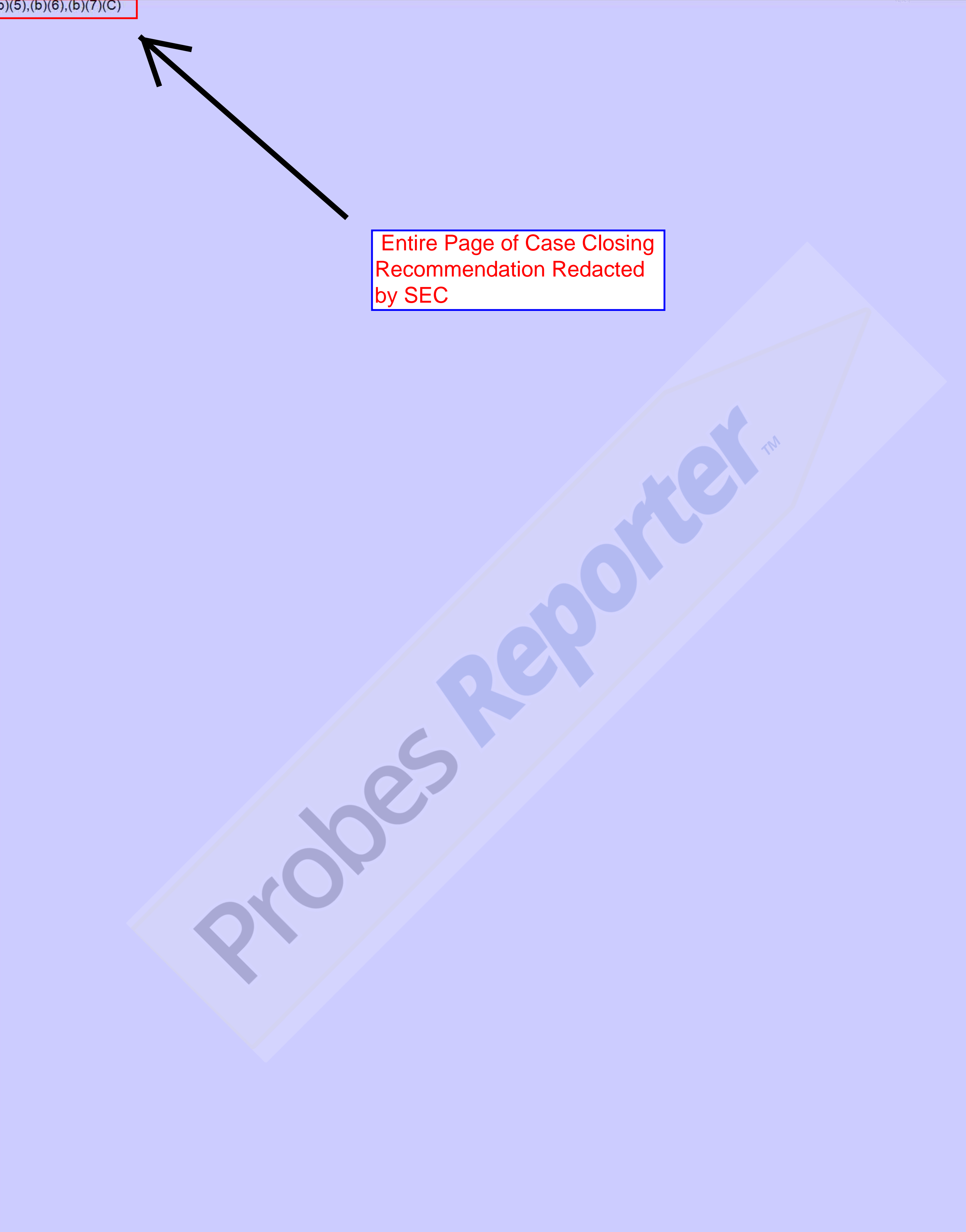
(b)(5),(b)(6),(b)(7)(C)



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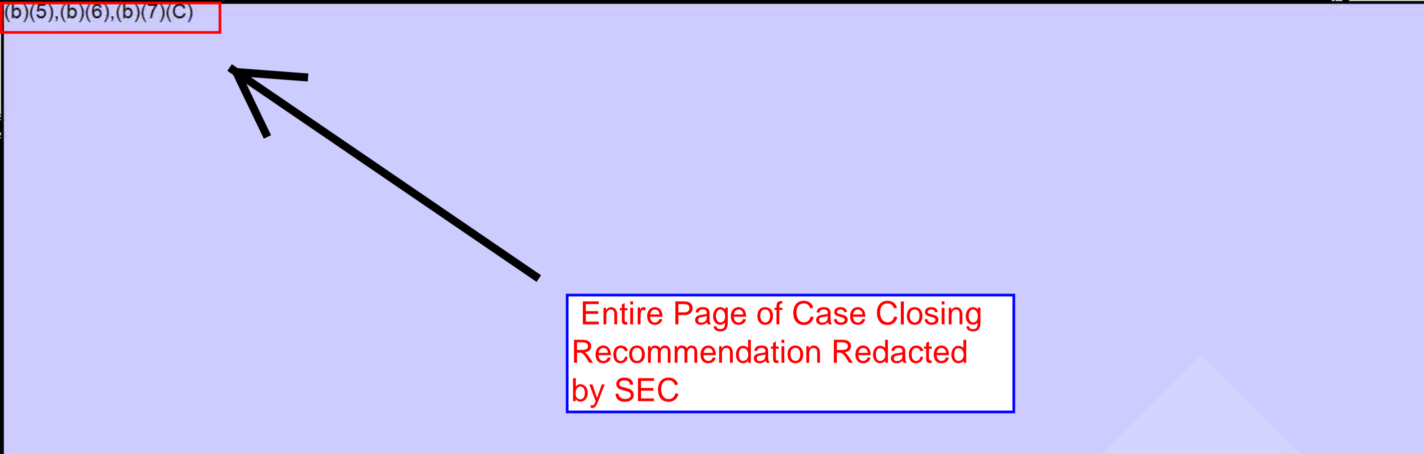

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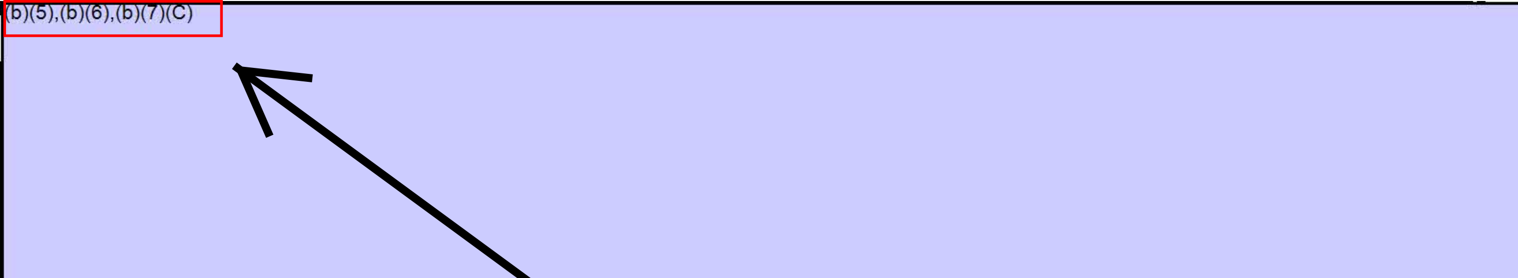

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SEC DIVISION OF ENFORCEMENT

Case Closing Report

As of: 02/24/2014

Exhibit C, Part 2 - The same Case Closing Recommendation with no redactions.

Matter No.: LA-04362-A **Matter Name:** Multi-Fineline Electronix, Inc.

The undersigned has been designated by the Director of the Division of Enforcement to exercise delegated authority to terminate and close all investigations authorized by the Commission pursuant to Section 20 of the Securities Act of 1933 [15 U.S.C. 77t], Section 21 of the Securities Exchange Act of 1934 [15 U.S.C. 78u], Section 18 of the Public Utility Holding Company Act of 1935 [15 U.S.C. 79r], Section 42 of the Investment Company Act of 1940 [15 U.S.C. 80a-41], and section 209 of the Investment Advisers Act of 1940 [15 U.S.C. 80b-9].

I hereby close this case, pursuant to delegated authority.

[signature]

Signature

Associate Regional Director

Title

~~February~~ March 3, 2014

Date

Probes Reporter

SEC DIVISION OF ENFORCEMENT

Case Closing Recommendation

As of: 02/24/2014

Matter No.: LA-04362-A **Matter Name:** Multi-Fineline Electronix, Inc.

Matter Closing Narrative:

I. Reason Opened:

This matter was opened based on a TCR from an anonymous whistleblower in China who alleged certain financial reporting and internal controls violations by Multi-Fineline Electronix, Inc. ("MFLEX" or "the Company"). MFLEX is a producer of flexible printed circuits and flexible circuit assemblies for the electronics industry, and its common stock trades on the NASDAQ Global Select Market under the symbol "MFLX." The whistleblower alleged that MFLEX recorded the sale of a factory in Su Ning, China, for $20 million during fiscal year 2012 while the property remained on the balance sheet at the end of the fiscal year. As a result, the recording of the sale may have overstated the issuer's income before income taxes by up to $20 million.

II. Work Performed:

The staff obtained documents voluntarily produced by the Company, had several conference calls with outside and in-house counsel, reviewed public filings, and obtained some additional information from the whistleblower.

The whistleblower clarified that the numbers in his TCR were for RMB and not USD. Additionally, when we reviewed the sale and payment documents, we discovered that the whistleblower was mistaken and that the sale price was 10 million RMB not 20 RMB. This translated to about $1.6 million USD. The Company recorded a $1.6 million gain on the disposal of this fully-depreciated facility in the quarter ended June 30, 2013. We reviewed supporting documents for the sale including the letter of intent, payment verification, land certificates of the Chinese government's approval of the sale, and an internal accounting memo. The property, which was leased from the government, was fully depreciated in 2011 because the government demanded the return of the property. Even though ultimately, the government did not take the property back, the Company decided to dispose it off and move its operations to another facility. At January 31, 2011, the book value of the facility was 3.6 million RMB, or about $600,000 USD, which the Company wrote off.

III. Conclusions Reached:

The staff could not identify any impropriety with the sale, the sale proceeds, or the substantiating documents. Moreover, the net impact of the sale was small and likely immaterial. The $1.6 million gain was about 5% of the $31.5 million net loss during the quarter ended June 30, 2013. The only accounting issue we might have would involve the accelerated depreciation in fiscal 2011 from $600,000 to $0. However, this occurred in 2011, and the write-off amount ($600,000) was less than 2% of MFLEX's $37.9 million net income for that fiscal year. Even if material, it is possible that the write-off complied with US GAAP given that that property was "held for sale" as of that time. However, we did not research the issue in further detail because it occurred in 2011 and it was likely immaterial. Therefore, we deem this matter inappropriate for further enforcement action.

IV. Formal Order:

No Formal Order of Investigation was issued in this matter.

V. Action(s) Taken:

No action was taken in connection with this matter for the reasons set forth in Section III above.

VI. Reason for Closing:

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The staff therefore believes that this matter is not appropriate for enforcement action and that it should be closed.

VII. Compliance Requirements:

In this matter, there is not an outstanding access request from another government agency and there is not a litigation hold on Records and Non-Record Materials. This matter was not associated with an omnibus formal order. The locations of the Records and Non-Record Materials associated with this case have been identified on the attached "Checklist for Locating all Hard Copy and Electronic Records and Non-Record Materials." Promptly after this case closes in the Hub, the Freedom of Information Act (FOIA) status will be checked to determine whether there are any FOIA concerns. All records related to this matter will be retained in accordance with the Division of Enforcement's current Documents and Records Disposition Procedures and Documents Retention Schedule. Termination letters have been sent to the following parties: Multi-Fineline Electronix, Inc. The staff has no objection to the eventual destruction of any documents or records (after 25 years) if consistent with the Division's then-existing records disposition policy.

VIII. Names and Titles of Staff:

This closing recommendation was prepared by Carol Shau and Nina Yamamoto, Staff Accountants, and reviewed and approved by Alka Patel, Assistant Regional Director and Lorraine Echavarria, Associate Regional Director.

Representations

A. Records Disposition

☒ The locations of the Records and Non-Record Materials associated with this case have been identified on a completed Checklist for Locating all Hard Copy and Electronic Records and Non-Record Materials.

☒ Promptly after this case closes in the Hub, the Freedom of Information Act (FOIA) status will be checked to determine whether there are any FOIA concerns.

☒ All records related to this matter will be retained in accordance with the Division of Enforcement's current Documents and Records Disposition Procedures and Document Retention Schedule.

☒ No objection has been made to the eventual destruction of any documents or records (after 25 years) if consistent with the Division's then existing records disposition policy.

B. Legal Impediments

<u>Outstanding Access Request</u>

Choose one:

☐ There is an outstanding access request from another government agency in this matter and the covered Non-Record Materials have been identified and will be retained.

☒ There is not an outstanding access request from another government agency in this matter.

<u>Litigation Hold</u>

Choose one:

☐ There is a litigation hold in another matter that pertains to Records and Non-Record Materials in this matter and the covered Non-Record Materials have been identified and will be retained.

☒ There is not a litigation hold in another matter that pertains to Records and Non-Record Materials in this matter.

<u>Omnibus Formal Order</u>

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Choose one:

- [ ] This matter was associated with an omnibus formal order and the covered Non-Record Materials have been identified and will be retained.
- [x] This matter was not associated with an omnibus formal order.

C. Termination Letters

Choose One:

- [ ] No termination letters are required to be sent in this matter.
- [x] Termination letters either have been or will be sent to the parties identified in the case closing narrative.

Based on the representations made above, the undersigned recommend(s) the closing of this case.

Signatures:

[signature]	3/25/14 Date
[signature] Attorney	2/24/14 Date
[signature] Assistant Director	2/26/14 Date

Probes Reporter™

SEC DIVISION OF ENFORCEMENT

Case Closing Report

As of: 07/11/2013

Exhibit D - Unredacted Case Closing Recommendation on 3M Unintentionally Released by SEC.

Matter No.: HO-11391-A **Matter Name:** 3M Company

The undersigned has been designated by the Director of the Division of Enforcement to exercise delegated authority to terminate and close all investigations authorized by the Commission pursuant to Section 20 of the Securities Act of 1933 [15 U.S.C. 77t], Section 21 of the Securities Exchange Act of 1934 [15 U.S.C. 78u], Section 18 of the Public Utility Holding Company Act of 1935 [15 U.S.C. 79r], Section 42 of the Investment Company Act of 1940 [15 U.S.C. 80a-41], and section 209 of the Investment Advisers Act of 1940 [15 U.S.C. 80b-9].

I hereby close this case, pursuant to delegated authority.

Kara Brockmeyer

Signature

FCPA Unit Chief

Title

July 11, 2013

Date

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SEC DIVISION OF ENFORCEMENT

Case Closing Recommendation

As of: 07/11/2013

Matter No.: HO-11391-A **Matter Name:** 3M Company

Matter Closing Narrative:

I. Reason Opened:

On November 12, 2009, 3M Company (3M) self-reported to the SEC and the Department of Justice that in August 2009, it received a tip via an anonymous reporting hotline of potential misconduct at 3M Turkey. 3M was formed in 1902, started trading on the New York Stock Exchange in 1946, and is headquartered in St. Paul Minnesota. The Company's stock is listed on the New York Stock Exchange, the Chicago Stock Exchange and the SIX Swiss Exchange. The allegations concerned possible bribe payments by 3M Turkey to Turkish government entities in connection with the supply of certain 3M products and services. Shortly after receipt of the tip, 3M engaged legal counsel and a forensic accounting firm to conduct an investigation of the alleged misconduct.

In 2010, pursuant to its normal FCPA compliance program, 3M undertook a global assessment of its internal controls and operations in ten high-risk countries to determine whether there were any additional FCPA issues. The Company's ten-country assessment identified potential issues at 3M operations in France and Russia that required follow-up investigation. 3M's cooperation in this case was exemplary. They provided the staff with all relevant information in a timely and cohesive fashion. 3M has a robust FCPA compliance program that has been in effect since the enactment of the FCPA.

II. Work Performed:

The staff received documents from the Company voluntarily and, later in the investigation, pursuant to a Formal Order dated February 25, 2011. 3M conducted an internal investigation of potential FCPA violations, and the staff and DOJ met regularly with counsel for status updates. The staff requested and received assistance from the Turkish and French regulators. The staff reviewed bank records, accounting records, emails, presentation materials and other documents and asked for and obtained follow-up information.

III. Conclusions Reached:

The staff made the following findings on the issues identified above:

1. Turkey: 3M received two complaints alleging that the 3M Turkey Managing Director was making payments to government officials for contract awards and bid-rigging. In all the tenders at issue 3M was the sub-contractor. The claimants did not provide any evidence to substantiate their claims. The investigation showed that the scheme likely involved embezzlement and a dispute between employees. Further, the staff subpoenaed 3M contractors' bank records and found no evidence of payments to government officials. 3M terminated the 3M Turkey Manager in May 2009 for self-dealing.

2. France: In February 2011, 3M reported to the staff a potential FCPA violation with a company it acquired in October 2008 called Financerie Burgienne (FB), a subsidiary of 3M France. FB manufactures license plates and exports them to Benin. The issue that arose involved an agent relationship between FB and an African agent in Benin, who had demanded from 3M France commission payments for "end-of-year-gifts" potentially to foreign officials. In April 2011, the staff subpoenaed the company for all documents between FB, 3M France, the Benin Company and the agent at issue. In July 2011, due to French blocking statute concerns, the staff also sent an MOU request to the Autorite des Marches Financiers (AMF) for assistance in obtaining the requested documents from the French entities. After reviewing the subpoenaed documents and the interview transcript of the agent, the staff and the Company concluded that there was no actual evidence of bribe payments to government officials. In February 2011, 3M France terminated all business with the agent.

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3. Russia: The Company investigated whether two consultant companies were making bribe payments on behalf of 3M to Russian government officials for certification of 3M products. The certifications were a requirement for selling the products in the Russian marketplace. The staff reviewed emails, contracts between the companies and 3M, invoices and interview transcripts. The staff also subpoenaed testimony and documents from the U.S.-based 3M Business Development Manager, who supervised the 3M Russian subsidiary during the relevant period. The Manager, through counsel, invoked his Fifth Amendment right against self-incrimination by affidavit. Through an attorney proffer the staff determined that the manager did not have knowledge of any improper payments by the consultants to Russian government officials. The staff found one email that suggested that an improper payment may have been made by one of the consultants to a government official in 2007. However, there was no evidence that 3M was aware of the payment or that the one potential improper payment was made in return for approval or certification of the 3M product. Further, in 2009, 3M terminated all its business with the consultants at issue, changed its business model so that it does not use intermediaries, and terminated the 3M Business Development Manager for 3M Russia and the 3M sales manager at the 3M Russia office.

IV. Formal Order:

The Commission issued a Formal Order of Investigation on February 25, 2011.

V. Action Taken:

No action was taken in connection with this matter for the reasons set forth in Section III above.

VI. Reason for Closing:

For the reasons set forth above in section III, the staff therefore believes that this matter is not appropriate for enforcement action and that it should be closed.

VII. Compliance Requirements:

There are no outstanding access requests from other government agencies and there are no litigation holds on Records and Non-Record Materials. This matter was not associated with an omnibus formal order. The locations of the Records and Non-Record Materials associated with this case have been identified on the attached "Checklist for Locating all Hard Copy and Electronic Records and Non-Record Materials." Promptly after this case closes in the Hub, the Freedom of Information Act (FOIA) status will be checked to determine whether there are any FOIA concerns. All documents and records created, received, or maintained for this matter will be retained in accordance with the September 7, 2011, memorandum from Mark D. Cahn, General Counsel. Termination letters have been sent to the following parties: Bruce E. Yannett, Esq. and Paul R. Berger, Esq. at Debevoise & Plimpton LLP. The staff has no objection to the eventual destruction of any documents or records (after 25 years) if consistent with the Division's then-existing records disposition policy.

VIII. Names and Titles of Staff:

This closing recommendation was prepared by Irene Gutierrez, Senior Counsel and reviewed and approved by Tracy L. Price, FCPA Assistant Director and, Kara N. Brockmeyer, FCPA Unit Chief.

Representations

A. Records Disposition

- ☒ The locations of the Records and Non-Record Materials associated with this case have been identified on a completed Checklist for Locating all Hard Copy and Electronic Records and Non-Record Materials.
- ☒ Promptly after this case closes in the Hub, the Freedom of Information Act (FOIA) status will be checked to determine whether there are any FOIA concerns.
- ☒ All documents and records created, received, or maintained for the matter will be retained in accordance with the September 7, 2011 memorandum from Mark D. Cahn, General Counsel.

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☒ No objection has been made to the eventual destruction of any documents or records (after 25 years) if consistent with the Division's then existing records disposition policy.

B. Legal Impediments

Outstanding Access Request

Choose one:

☐ There is an outstanding access request from another government agency in this matter and the covered Non-Record Materials have been identified and will be retained.

☒ There is not an outstanding access request from another government agency in this matter.

Litigation Hold

Choose one:

☐ There is a litigation hold in another matter that pertains to Records and Non-Record Materials in this matter and the covered Non-Record Materials have been identified and will be retained.

☒ There is not a litigation hold in another matter that pertains to Records and Non-Record Materials in this matter.

Omnibus Formal Order

Choose one:

☐ This matter was associated with an omnibus formal order and the covered Non-Record Materials have been identified and will be retained.

☒ This matter was not associated with an omnibus formal order.

C. Termination Letters

Choose One:

☐ No termination letters are required to be sent in this matter.

☒ Termination letters either have been or will be sent to the parties identified in the case closing narrative.

Based on the representations made above, the undersigned recommend(s) the closing of this case.

Signatures:

______________________	Date
[signature] Attorney	7-11-2013 Date
[signature] Assistant Director	7-11-2013 Date

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Checklist for Locating all Hard Copy and Electronic Records and Non-Record Materials
In the Matter of 3M Company (HO-11391)

[X] **Step 1. Locate all Hard Copy Documents, including Category A-E Records and Non-Record Materials such as Work Product and Document Productions:**

- [X] Case file (core investigative and litigation documents) Quantity (*i.e.* 2 redwelds, 1 box): ________
- [ ] Staff Offices (attorneys, litigators, managers, secretaries, paralegals, accountants) including:
  - [ ] ________ Quantity: ____ [ ] ________ Quantity: ____
  - [ ] ________ Quantity: ____ [ ] ________ Quantity: ____
  - [ ] ________ Quantity: ____ [ ] ________ Quantity: ____
  - [ ] ________ Quantity: ____ [ ] ________ Quantity: ____
- [ ] Iron Mountain: [ ] Yes [ ] No
  If yes, # of boxes: ____
  IM SKU #s (add 2nd page if needed): ________
- [X] File and/or Work Rooms: [ ] Yes [X] No
  If yes, insert location(s): ____ and quantity: ____
- [X] Any staff member involved in the collections and distributions process: [ ] Yes [X] No
  If yes, insert name(s): ________ Quantity: ____

[X] **Step 2. Locate all Electronic Media (E-mail, Hard Drives, Flash Drives, CDs/DVDs):**

- [ ] Staff Offices (attorneys, litigators, managers, secretaries, paralegals, accountants) including:
  - [ ] N/A Type & #: ____ [ ] ________ Type & #: ____
  - [ ] ________ Type & #: ____ [ ] ________ Type & #: ____
  - [ ] ________ Type & #: ____ [ ] ________ Type & #: ____
  - [ ] ________ Type & #: ____ [ ] ________ Type & #: ____
- [ ] Iron Mountain: [ ] Yes [ ] No
  If yes, Type & #: ____
  IM SKU #s (add 2nd page if needed): ________
- [ ] File and/or Work Rooms: [ ] Yes [ ] No
  If yes, insert location(s): ____ and Type & quantity: ____

[X] **Step 3. Locate all Electronic Files:**

- [X] J:\ folder (besides standard file folder): [ ] Yes [ ] No
  If yes, insert path: ENF1 - HO 11391
- [X] M:\ Drive: [ ] Yes [ ] No
  If yes, insert path: database 8- HO-11391
- [X] Staff F:\ folders: [ ] Yes [X] No
  If yes, insert name(s): ________
- [X] Locations of any .pst (e-mail) folders other than standard J:\ Case ESI sub-folder: [ ] Yes [ ] No
  If yes, insert name(s): Gutierezi Location(s): ________

After reasonable inquiry, and to the best of my knowledge and belief, the locations of all Records and Non-Record Materials associated with this case are identified above.

Irene Gutierrez
Name

[signature]
Signature

Last Updated: September 29, 2010
Last Detailed Review: September 29, 2010

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Exhibit E - Response on 3M

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2736

Office of FOIA Services

December 18, 2013

Mr. J. Patrick Gavin

P.O. Box 47331
Plymouth, MN 55447

RE: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. 14-01639-FOIA

Dear Mr. Gavin:

This letter is in response to your request dated and received in this office on November 14, 2013, for certain records located in the main investigative file of any investigations related to the registrant 3M Company (cik #: 0000066740), since November 13, 2011.

According to our records, you submitted a similar request (No. 13-07586) for information concerning 3M Company from May 29, 2011 through May 30, 2013. Thus, we conducted a search for records since your previous request, and have located and determined that the only document responsive to your request that is contained in the investigation files is the case closing report. Access is granted entirely to the enclosed one page report.

If you have any questions, please contact me at osbornes@sec.gov or (202)551-8371. You may also contact me at foiapa@sec.gov or (202) 551-7900.

Sincerely,

Sonja Osborne

Sonja Osborne
FOIA Lead Research Specialist

Enclosure

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Exhibit F - Tangoe, Inc.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2736

Office of FOIA Services

September 12, 2014

Mr. J. Patrick Gavin

P.O. Box 47331
Plymouth MN 55447

RE: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. 14-00022-REMD, 14-00216-APPS,
14-04845-FOIA

Dear Mr. Gavin:

This is in response to your request dated May 22, 2014, for certain investigative records concerning Tangoe, Inc., for the period from February 19, 2012, to the date we began processing your request. As you know, upon reviewing your May 1, 2014, appeal to our initial denial letter, the SEC's Office of General Counsel remanded your request back to this office for further processing on June 3, 2014.

After consulting with the staff, we have determined to release the enclosed Case Closing Report, which may be responsive to your request

If you have any questions, please contact me at taylora@sec.gov or (202) 551-8318. You may also contact me at foiapa@sec.gov or (202) 551-7900.

Sincerely,

Aaron Taylor
FOIA Research Specialist

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SEC DIVISION OF ENFORCEMENT

Case Closing Report

As of: 06/30/2014

Exhibit F, Part 2 - Unredacted Case Closing Recommendation on Tangoe, Inc. Unintentionally Released by SEC

Matter No.: FW-03765-A **Matter Name:** Tangoe, Inc.

The undersigned has been designated by the Director of the Division of Enforcement to exercise delegated authority to terminate and close all investigations authorized by the Commission pursuant to Section 20 of the Securities Act of 1933 [15 U.S.C. 77t], Section 21 of the Securities Exchange Act of 1934 [15 U.S.C. 78u], Section 18 of the Public Utility Holding Company Act of 1935 [15 U.S.C. 79r], Section 42 of the Investment Company Act of 1940 [15 U.S.C. 80a-41], and section 209 of the Investment Advisers Act of 1940 [15 U.S.C. 80b-9].

I hereby close this case, pursuant to delegated authority.

David Peavler

Signature

David Peavler
Associate Director

Title

6/30/14

Date

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Matter No.: FW-03765-A **Matter Name:** Tangoe, Inc.

Matter Closing Narrative:

I. Reason Opened:

This matter was initially opened in September 2012 after the staff read an article highly critical of Tangoe, Inc.'s acquisition and revenue recognition practices. The Streetsweeper claimed that Tangoe inflated the value of acquisitions, as well as revenues from acquired companies in an effort to inflate revenues and buoy its stock price. The Streetsweeper acknowledged in the article that it held short positions in Tangoe stock.

II. Work Performed:

As part of the investigation, the staff: (1) reviewed news stories related to Tangoe's acquisitions and Tangoe generally; (2) reviewed press releases and disclosures by Tangoe regarding its acquisitions; (3) analyzed accounting practices related to recognizing the value of overhead in acquired companies; and (4) analyzed revenue recognition practices by acquiring companies.
During our investigation, the staff located additional articles in which the author(s) make claims similar to those raised in The Streetsweeper. In November 2013, Seekingalpha.com published a summary of an investor report that made several allegations regarding misstatements in Tangoe's financial statements, including those raised in The Streetsweeper. The Staff analyzed each of the allegations raised by the TheStreetsweeper and Seekingalpha.com articles and related report.

III. Conclusions Reached:

Like The Streetsweeper piece, the Seekingalpha.com article was authored by a person or persons with a short position on Tangoe. In general, the article contains various facts that appear skewed by the author to support the general proposition that Tangoe is misrepresenting its financial condition. Below is a discussion of several points raised in the articles and report, and the Staff's analysis of same:

Tangoe overstates its reported pro forma results by failing to tax-effect numerous non-cash add-backs.
o Tangoe uses a non-GAAP measure for its adjusted EBITDA and EPS. Accordingly, there are no GAAP requirements for Tangoe to factor tax effects into EBITDA or EPS. The Staff found that some companies do "tax-effect" such adjusted measures, but not all do. Nothing is alleged in the articles, and we see nothing in Tangoe's financial statements, that indicates that the non-GAAP EBITDA and EPS metrics are fraudulent.
In 2Q 2013, Tangoe used a restructuring charge to meet 2Q guidance on earnings.

o Tangoe described and disclosed that it had agreed to cancel certain leases related to acquisitions made in 2011, then took a $499,000 charge in 2Q 2013. Tangoe added-back the charge in its calculation of adjusted EBITDA, without which, the author claims, Tangoe would have missed its adjusted EPS targets. However, given the one-time nature of the charge, it appears reasonable to add-back the $499,000 to the non-GAAP adjusted EBITDA figure, especially considering the fact that Tangoe disclosed the charge and the add-back. Moreover, by taking the charge, and adding it back for adjusted EBITDA, the net effect is zero, which would have been the same result for adjusted EBITDA had Tangoe simply chosen not to take the charge in 2Q, or any period.

o The timing of the charge is questionable, given the lapse in time between the acquisition and the charge. However, because analysts use adjusted EBITDA and EPS as a guide, and Tangoe disclosed the charge and add-back, the restructuring charge seems to have had little effect on meeting guidance.

Tangoe management has discussed significant international expansion, but does not report any material international

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revenues.

o Tangoe's public filings disclose that its international operations are owned by a domestic company, which is a subsidiary of Tangoe. Accordingly, Tangoe considers revenues from the domestic company's international operations to be domestic. Management has overstated "organic growth" by understating revenues from acquired companies to create the appearance that Tangoe's organic revenue is responsible for growth.

o Tangoe discusses growth and new customers on its earnings calls. Tangoe is under no obligation under GAAP to disclose customer information, and many companies choose not to do so. Moreover, the calculations by the author related to growth are incorrect, apparently massaging the numbers to make Tangoe's disclosures appear fraudulent. In addition, Tangoe had disclosed that new customers will have an impact on future revenues, a fact which the author apparently did not consider. There is no indication in Tangoe's public statements, filings, or in the articles, that Tangoe's disclosures regarding growth and customers are fraudulent.

Tangoe management lied about historical revenue related to an acquired company.

o In this instance, the author appears to skew the facts regarding the timing of the acquisition in question to make the case for fraud. For example, the acquisition took place at the beginning of the quarter, yet the author claims the acquisition was made at mid-quarter. The author alleges that Tangoe management understated expected revenues from the acquisition in order to receive a bump in growth when full quarter revenue was recorded in future periods. As noted, this allegation is in large part based upon a distortion of the timing of the acquisition.
Tangoe overstates its free cash flow.

o Free cash flow is a non-GAAP measure. In addition, the author defines free cash flow in one way, but Tangoe's disclosed description of free cash flow is materially different. It appears that the discrepancy noted by the author is due to this difference in perspective.

In sum, many of the allegations are based upon skewed facts to make the author's case for fraud, including complaints about Tangoe's use of non-GAAP measures. Based upon the Staff's review of the articles and report, Tangoe's public filings, disclosures, and earnings calls, the Staff is unable to substantiate the allegations of fraud.

Given our inability to substantiate the allegations in the articles, we are closing this investigation without action.

IV. Formal Order:

None.

V. Action(s) Taken:

No action was taken in connection with this matter for the reasons set forth in Section III above.

VI. Reason for Closing:

For the reasons stated above, the staff believes that this matter is not appropriate for enforcement action and that it should be closed.

VII. Compliance Requirements:

In this matter, there is not an outstanding access request from another government agency and there is not a litigation hold on Records and Non-Record Materials. This matter was not associated with an omnibus formal order.

The locations of the Records and Non-Record Materials associated with this case have been identified on the attached "Checklist for Locating all Hard Copy and Electronic Records and Non-Record Materials."

Promptly after this case closes in the Hub, the Freedom of Information Act (FOIA) status will be checked to determine whether there are any FOIA concerns. All records related to this matter will be retained in accordance with the Division of Enforcement's current Documents and Records Disposition Procedures and Documents Retention Schedule.

No termination letters are required because no formal order was issued, no wells submissions were asked for or submitted.

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The staff has no objection to the eventual destruction of any documents or records (after 25 years) if consistent with the Division's then-existing records disposition policy.

VIII. Names and Titles of Staff:

This closing recommendation was prepared by Todd B. Baker, Staff Attorney and Laura Bennett, Staff Accountant, and reviewed and approved by Jonathan P. Scott, Assistant Director, Enforcement and, David L. Peavler, Associate Director, Enforcement.

Representations

A. Records Disposition

- [x] The locations of the Records and Non-Record Materials associated with this case have been identified on a completed Checklist for Locating all Hard Copy and Electronic Records and Non-Record Materials.
- [x] Promptly after this case closes in the Hub, the Freedom of Information Act (FOIA) status will be checked to determine whether there are any FOIA concerns.
- [x] All records related to this matter will be retained in accordance with the Division of Enforcement's current Documents and Records Disposition Procedures and Document Retention Schedule.
- [x] No objection has been made to the eventual destruction of any documents or records (after 25 years) if consistent with the Division's then existing records disposition policy.

B. Legal Impediments

Outstanding Access Request

Choose one:

- [ ] There is an outstanding access request from another government agency in this matter and the covered Non-Record Materials have been identified and will be retained.
- [x] There is not an outstanding access request from another government agency in this matter.

Litigation Hold

Choose one:

- [ ] There is a litigation hold in another matter that pertains to Records and Non-Record Materials in this matter and the covered Non-Record Materials have been identified and will be retained.
- [x] There is not a litigation hold in another matter that pertains to Records and Non-Record Materials in this matter.

Omnibus Formal Order

Choose one:

- [ ] This matter was associated with an omnibus formal order and the covered Non-Record Materials have been identified and will be retained.
- [x] This matter was not associated with an omnibus formal order.

C. Termination Letters

Choose One:

Probes Reporter

☑ No termination letters are required to be sent in this matter.

☐ Termination letters either have been or will be sent to the parties identified in the case closing narrative.

Based on the representations made above, the undersigned recommend(s) the closing of this case.

Signatures:

Jonathan Scott **Assistant Director**	6/30/2014 Date
Attorney	Date
David Peavler **Associate Director**	6/30/14 Date

Probes Reporter ™

SEC DIVISION OF ENFORCEMENT

Matter Under Inquiry Summary

As of: 06/30/2014

MUI No.: MFW-03765 **MUI Name:** Tangoe, Inc.

Staff: Regional Director : WOODCOCK, DAVID R
Associate : PEAVLER, DAVID L
Assistant : SCOTT, JONATHAN P.
Attorney : BAKER, TODD B
Accountant : MARTINEZ, TY S
Paralegal : SINGLETON, MATILDA G.

Org. Code: 06240

Open Date: 09/06/2012

Close Date: 10/29/2012

Status: Closed/Investigation Opened

Date Last Modified: 10/29/2012

Case No.: FW-03765

Origins: ENF-INTERNET SURVLNCE

INV No.: FW-03765-A **INV Name:** Tangoe, Inc. **Open Date:** 10/29/2012

INV Status: Under Review for Closing **Close Date:**

Action No.: **Action Name:** **Type:**

Action Status: **Date Filed:**

Date Closed:

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SEC DIVISION OF ENFORCEMENT

Investigation Summary

As of: 06/30/2014

Inv. No.: FW-03765-A **Inv. Name:** Tangoe, Inc.

Staff: Regional Director : WOODCOCK, DAVID R
Associate : PEAVLER, DAVID L
Assistant : SCOTT, JONATHAN P.
Attorney : BAKER, TODD B
Accountant : MARTINEZ, TY S
Paralegal : SINGLETON, MATILDA G.

Org. Code: 06240
Open Date: 10/29/2012
Close Date:

Status: Under Review for Closing

Date Last Modified: 06/30/2014

Formal Order Date:

Origins: ENF-INTERNET SURVLNCE

Action No.: **Action Name:** **Type:**
Action Status: **Date Filed:**
Date Closed:

MUI No.: MFW-03765 **MUI Name:** Tangoe, Inc. **Open Date:** 09/06/2012
MUI Status: Closed/Investigation Opened **Close Date:** 10/29/2012

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Checklist for Locating all Hard Copy and Electronic Records and Non-Record Materials
In the Matter of TANGOE (FW-03765)

☒ **Step 1. Locate all Hard Copy Documents, including Category A-E Records and Non-Record Materials such as Work Product and Document Productions:**

☐ Case file (core investigative and litigation documents) Quantity (*i.e.* 2 redwelds, 1 box): _____

☐ Staff Offices (attorneys, litigators, managers, secretaries, paralegals, accountants) including:

☐ _____	Quantity: _____	☐ _____	Quantity: _____
☐ _____	Quantity: _____	☐ _____	Quantity: _____
☐ _____	Quantity: _____	☐ _____	Quantity: _____
☐ _____	Quantity: _____	☐ _____	Quantity: _____

☐ Iron Mountain: ☐ Yes ☐ No
If yes, # of boxes: _____
IM SKU #s (add 2nd page if needed): _____

☒ File and/or Work Rooms: ☒ Yes ☐ No
If yes, insert location(s): Fileroom and quantity: 1 file

☐ Any staff member involved in the collections and distributions process: ☐ Yes ☐ No
If yes, insert name(s): _____ Quantity: _____

☐ **Step 2. Locate all Electronic Media (E-mail, Hard Drives, Flash Drives, CDs/DVDs):**

☐ Staff Offices (attorneys, litigators, managers, secretaries, paralegals, accountants) including:

☐ _____	Type & #: _____	☐ _____	Type & #: _____
☐ _____	Type & #: _____	☐ _____	Type & #: _____
☐ _____	Type & #: _____	☐ _____	Type & #: _____
☐ _____	Type & #: _____	☐ _____	Type & #: _____

☐ Iron Mountain: ☐ Yes ☐ No
If yes, Type & #: _____
IM SKU #s (add 2nd page if needed): _____

☐ File and/or Work Rooms: ☐ Yes ☐ No
If yes, insert location(s): _____ and Type & quantity: _____

☐ **Step 3. Locate all Electronic Files:**

☐ J:\ folder (besides standard file folder): ☐ Yes ☐ No
If yes, insert path:

☐ M:\ Drive: ☐ Yes ☐ No
If yes, insert path:

☐ Staff F:\ folders: ☐ Yes ☐ No
If yes, insert name(s): _____

☐ Locations of any .pst (e-mail) folders other than standard J:\ Case ESI sub-folder: ☐ Yes ☐ No
If yes, insert name(s): _____ Location(s): _____

After reasonable inquiry, and to the best of my knowledge and belief, the locations of all Records and Non-Record Materials associated with this case are identified above.

MAtildA Singleton
Name

[signature] 6/30/14
Signature

Last Updated: September 29, 2010
Last Detailed Review: September 29, 2010

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

Exhibit G - Point of Reference Appears Page 3

Stop 9612

July 1, 2014

J. Patrick Gavin
P.O. Box 47331
Plymouth, MN 55447

Re: Appeal, Freedom of Information Act (FOIA) Request No. 2014-05517, designated on appeal as No. 14-00152

Dear Mr. Gavin:

I am responding to your April 14, 2014, Freedom of Information Act appeal of the decision of the FOIA/Privacy Act Officer, Securities and Exchange Commission, denying in part your request for specified records that may be contained "in the main investigative file of any investigation(s) related to the registrant Allergan Inc. (cik # 0000850693) since March 5, 2012."[1] On March 20, 2014, the FOIA Officer released in its entirety a case closing report, but withheld 3 pages of internal administrative records (collectively, the internal records) pursuant to FOIA Exemption 5.[2] The FOIA Officer also asserted Exemption 7(A)[3] to withhold records in other investigative files. On appeal you questioned those assertions as well as the sufficiency of the search. I have considered your appeal and it is denied.

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[1]The specified records were described as (1) correspondence sent to and/or received from the registrant: (2) correspondence sent to and/or received by third parties related to the registrant; (3) wells notices; (4) subpoenas; (5) orders of formal investigation and any supplemental orders; and (6) opening and closing reports, including "case closing recommendation," "matter under inquiry summary," "investigation summary" to the extent that such records were created or obtained between March 5, 2012 to the date of your request, March 6, 2014.

[2]Exemption 5 protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. 552(b)(5).

[3]Exemption 7(A) authorizes the withholding of "records or information compiled for law enforcement purposes, but only to the extent that production of such law enforcement records or information . . . could reasonably be expected to interfere with enforcement proceedings." 5 U.S.C. 552(b)(7)(A).

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A. The files protected under Exemption 7(A) contain no responsive records.

I have consulted with staff assigned to those matters for which the FOIA Officer asserted Exemption 7(A). On review, those files do not contain information responsive to your request.

B. Exemption 5 appropriately applies to the internal records.

The FOIA Officer asserted the attorney-client, deliberative process and attorney work-product privileges embodied in Exemption 5[4] to withhold the internal records. On appeal you argue that "the deliberative process privilege does not protect documents in their entirety" and that there should be information that could be segregated and released. You principally argue that any document reflecting a recommendation cannot be predecisional "[o]nce an agency adopts the recommendation contained in the document." You further argue that there must be "segregable factual information that does not reflect the SEC attorney's 'mental impressions,'" or their work product, that in your view should be disclosed.

Under Exemption 5, intra- and inter-agency memoranda that reflect deliberations amongst agency personnel or between agencies may be withheld from public disclosure. Such deliberative materials are protected from public release so that agency staff may freely engage in the candid, frank and open interchange of ideas critical to decision making as well as preventing confusion in the public as to the basis for a decision.[5]

As staff created the internal records, which have been maintained in a non-public file, the threshold requirement to be "intra-agency" in nature is met. The second consideration is whether the information is predecisional and deliberative.[6] A predecisional document is one designed to assist agency decisionmakers in arriving at their decisions and which contains the opinions of

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[4]Courts have construed Exemption 5 to exempt those documents that documents that would normally be privileged in the civil discovery context and to incorporate all civil discovery privileges, including the deliberative process privilege and the attorney work-product doctrine. *See, e.g., NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975); *FTC v. Grolier, Inc.*, 462 U.S. 19, 26 (1983); *Burka v. Dept. of Health and Human Services*, 87 F.3d 508, 516 (D.C. Cir. 1996) (noting that FOIA "incorporates . . . generally recognized civil discovery protections"); *Martin v. Office of the Special Counsel*, 819 F.2d 1181, 1185 (D.C. Cir. 1987) (statutory language "unequivocally" incorporates "all civil discovery rules into FOIA [Exemption 5]").

[5]*See, e.g., City of Virginia Beach v. Dept. of Commerce*, 995 F.2d 1247, 1252-53 (4th Cir. 1993).

[6]*Access Reports v. Dept. of Justice*, 926 F.2d 1192, 1194 (D.C. Cir. 1991).

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the writer rather than the policy of the agency.[7] In demonstrating the predecisional aspect, it suffices to establish "what deliberative process is involved, and the role played by the document in issue in the course of that process."[8] An agency must also show that the document makes recommendations or expresses opinions on matters facing the agency.[9] Exemption 5 generally covers drafts, recommendations, proposals, suggestions, discussions and other subjective documents that reflect the consultative process.[10]

In this case, the authors of the internal records did not have decision making authority. Rather, they presented their opinions, evaluative commentary, analysis and evaluation of the evidence obtained during the course of their investigation. These internal records were created to assist the decision maker in the appropriateness of opening, continuing or ending an investigation. The internal records also preceded and informed any decision, and so reflect the consultative process among agency personnel. Nor is there any demonstration that the decision maker adopted or incorporated these internal records into his decision.[11] Accordingly, these

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[7]*Formaldehyde Institute v. HHA*, 889 F.2d 1118, 1120 (D.C. Cir. 1989) (material is predecisional when it is part of the process leading to a decision on an issue).

[8]*Coastal States Gas Corp. v. Dept. of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980).

[9]*Mapother v. Dept. of Justice*, 3 F.3d 1533, 1537 (D.C. Cir. 1993).

[10]*Coastal States*, 617 F.2d at 866.

[11]The closing recommendation of itself has no "operative effect" as the decision maker is not obligated to adopt its recommendation or reasoning, and so cannot be characterized as a "final opinion;" nor is there any evidence that it was adopted or incorporated into the decision. *See, e.g., Renegotiation Board v. Grumman Aircraft Engineering Corp.*, 421 U.S. 168, 176-77 (1975) (decision maker not bound by any prior recommendations and was free to reject the proposed conclusion or to accept it based on reasons other than those set forth by staff). In fact, some agency decisions may simply not have any accompanying rationale as FOIA does not require agencies to write opinions about their decisions. *Id.* at 191.

Rather, where a decision maker, "having reviewed a subordinate's non-binding recommendation, makes a 'yes or no' determination without providing any reasoning at all, a court may not infer that the agency is relying on the reasoning contained in the subordinate's report." *National Council of La Raza v. Dept. of Justice*, 411 F.3d 350, 359 (2nd Cir. 2005); *Afshar v. Dept. of State*, 702 F.2d 1125, 1143 n.22 (D.C. Cir. 1983) (noting that "[i]f the agency merely carried out the recommended decision without explaining its decision in writing, we could not be sure that the memoranda accurately reflected the decisionmaker's thinking").

internal records comprise predecisional deliberative information, the disclosure of which would compromise the Commission's decisionmaking and consultative processes.

Exemption 5 also protects records prepared in anticipation of litigation under the attorney work-product doctrine.[12] Commission attorneys or staff under their supervision created this internal record in the course of an investigation. As Commission investigations are conducted with an eye towards litigation, these internal records include information subject to the attorney work-product doctrine.[13] To release the withheld record would permit the probing into the mental processes of the attorney authors of the closing recommendation.[14] Further, the internal records reflect confidential communications from Commission attorneys to their client.[15] Thus, I find that the FOIA Officer properly asserted the protections embodied in Exemption 5.

You assert that under Exemption 5, any factual information must be segregated and

---

Further, a "failure" to provide evidence that an agency decision maker "adopted the reasoning [of a memorandum] . . . is fatal" to an adoption finding. *Wood v. FBI*, 432 F.3d 78, 84 (2nd Cir. 2005).

[12]*See Schiller v. NLRB,* 964 F.2d 1205, 1208 (D.C. Cir. 1992) (work product protection extends to documents prepared in anticipation of litigation).

[13]*SafeCard Services, Inc. v. SEC*, 926 F.2d 1197, 1202 (D.C. Cir. 1991) (Exemption 5's work product privilege attaches to records of law enforcement investigation when the investigation is "based upon a specific wrongdoing and represent[s] an attempt to garner evidence and build a case against the suspected wrongdoer"); *Gavin v. SEC*, No. 04-4522, 2007 WL 2545156 at *9 (D.Minn. Aug. 23, 2007) (upholding use of privilege to protect documents created as part of investigation into possible violations of securities laws).

[14]The fact that closing of an investigation was recommended does not preclude application of Exemption 5 as the temporal relationship between a document and the anticipated litigation is irrelevant. *See Grolier*, 462 U.S. at 28 ("under Exemption 5, attorney work-product is exempt from mandatory disclosure without regard to the status of the litigation for which it was prepared" or anticipated).

[15]*See Mead Data Cent. v. Dept. of the Air Force*, 566 F.2d 242, 252 (D.C. Cir. 1977) (Exemption 5 applies to confidential communications between an attorney and his client relating to a legal matter for which the client sought professional advice); *W&T Offshore, Inc. v. Dept. of Commerce*, No. 03-2285, 2004 WL 2115418 at *4 (E.D. La. Sept. 21, 2004 (applying the attorney-client privilege to documents reflecting communications between agency employees and agency counsel).

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released. However, in the FOIA context, "[i]f a document is fully protected as work product, then segregability is not required."[16] "Although work product protection may be overcome for cause in civil cases . . . any materials disclosed for cause are not 'routinely' or 'normally' discoverable and, for that reason, are exempt under FOIA."[17] As such information is not routinely subject to disclosure in litigation, it is exempt in full under Exemption 5.[18]

C. A reasonable search was conducted.

On appeal, you also assert that the "SEC failed to identify and provide further records," an insufficient search was conducted. However, the absence of a description of the withheld records does not impugn the sufficiency of the search as FOIA only requires that an agency provide a reasonable estimate of the quantity of records being withheld, not a description.[19] You were provided with such estimate.[20]

With respect to the adequacy of a record search, the "issue is not whether any further documents might conceivably exist but rather whether the government's search for responsive

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[16] *Judicial Watch, Inc. v. Dept. of Justice*, 432 F.3d 366, 371 (D.C. Cir. 2005).

[17] *Williams & Connolly v. SEC*, 662 F.3d 1240, 1243 (D.C. Cir. 2011) .

[18] The standard under FOIA Exemption 5 is whether documents would "routinely be disclosed" in private litigation. *Sears*, 421 U.S. at 143 n.10, 149 n.16; *Swisher v. Dept. of the Air Force*, 660 F.2d 369, 371 (8th Cir. 1981) ("[I]f showing of exceptional need is necessary for disclosure in civil litigation, then it is not routinely discoverable and the material remains protected by Exemption 5."); *Grolier*, 462 U.S. at 27 (a protected document cannot be said to be subject to 'routine' disclosure); *Judicial Watch, Inc. v. Dept. of Justice*, 800 F. Supp.2d 202, 211 n. 7 (D.D.C. 2011) (distinction between "fact" work product and "opinion" work product does not apply in FOIA context since Exemption 5 protection extends to both).

[19] 5 U.S.C. 552(a)(6)(F); *Mobley v. Dept. of Justice*, 845 F. Supp.2d 120, 123-24 (D.D.C. 2012) ("The plain text of the statute does not require agencies to provide a list of withheld documents, but only to make a reasonable effort to estimate the volume of the documents withheld."); *Sakamoto v. EPA*, 443 F. Supp.2d 1182, 1189 (N.D. Cal. 2006) (at the administrative level, agencies are not required to provide an index of documents that are being withheld).

[20] Nonetheless, no formal order of investigation, subpoenas or wells notices were issued in connection with this closed investigation.

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documents was adequate."[21] The adequacy of the search is measured by a "standard of reasonableness" and is "dependent upon the circumstances of the case."[22] Further, "[t]here is no requirement that an agency search every record system in response to a FOIA request."[23] The issue is not whether any or further documents might conceivably exist but rather whether an agency's search was adequate.[24]

An agency meets its duty by searching those available indices or offices which are reasonably likely to have records related to the request.[25] This request sought selected investigative records related to a specific entity during stated time periods. In searching for records, FOIA staff reviewed computer indices for investigations and contacted Commission staff who conducted the investigation.[26] Accordingly, the search was reasonable and adequate.

D. Release of similar documents does not waive exemptions for other documents.

Finally, you assert that in response to some other unspecified instances, the FOIA Office had released without redaction case closing memoranda or other similar records. In light of such asserted prior releases, you suggest that the release of similar documents in one instance, if it occurred, waives the agency's ability to assert an exemption for other similar documents, and so, if similar documents were withheld in this case, they should be released.

Agencies may generally make "discretionary disclosures" of exempt information as a matter of their administrative discretion if they are not otherwise prohibited from releasing the information.[27] However, a prior discretionary (or inadvertent) disclosure does not preclude an

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[21] *Weisberg v. Dept. of Justice*, 705 F.2d 1344, 1351 (D.C. Cir 1983); *Oglesby v. Dept. of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990).

[22] *Weisberg*, 705 F.2d at 1351.

[23] *Brunetti v. FBI*, 357 F. Supp.2d 97, 103 (D.D.C. 2004); *Oglesby*, 920 F.2d at 68

[24] *Perry v. Block*, 684 F.2d 121, 128 (D.C. Cir. 1982).

[25] *Biberman v. FBI*, 528 F. Supp. 1140 (S.D.N.Y. 1982); *Marks v. Dept. of Justice*, 578 F.2d 261, 263 (9th Cir. 1978).

[26] I have also confirmed that no formal order of investigation, wells notices or subpoenas were issued in connection with this investigation.

[27] *Bartholdi Cable Co. v. FCC*, 114 F.3d 274, 282 (D.C. Cir. 1997) (stating that "FOIA's exemptions simply permit, but do not require, an agency to withhold exempted information");

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agency's ability to protect other, similar documents. In no case has the "release of certain documents waived the exemption as to other documents. On the contrary, [courts] generally have found that the release of certain documents waives FOIA exemptions only for those documents released."[28] Thus, there is no waiver of an exemption simply because an agency has released "information similar to that requested" in the past.[29]

You have the right to seek judicial review of my determination by filing a complaint in the United States District Court for the District of Columbia or in the district where you reside or have your principal place of business.[30] Voluntary mediation services as a non-exclusive alternative to litigation are also available through the Office of Government Information Services

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CNA Fin. Corp. v. Donovan, 830 F.2d 1132, 1134 n.1 (D.C. Cir. 1987) (explaining that agency's FOIA disclosure decision can "be grounded either in its view that none of the FOIA exemptions applies, and thus that disclosure is mandatory, or in its belief that release is justified in the exercise of its discretion, even though the data fall within one or more of the statutory exemptions").

[28]*Mobil Oil Corp. v. EPA*, 879 F.2d 698, 701 (9th Cir. 1989); *Salisbury v. U.S.*, 690 F.2d 966, 971 (D.C. Cir. 1982) ("[D]isclosure of a similar type of information in a different case does not mean that the agency must make its disclosure in every case."); *Stein v. Dept. of Justice*, 662 F.2d 1245, 1259 (7th Cir. 1981) (holding that exercise of discretion should waive no right to withhold records of "similar nature"); *Ctr. for Int'l Environmental Law v. Office of U.S. Trade Rep.*, 505 F. Supp.2d 150, 158-59 (D.D.C. 2007) (holding that prior disclosure of "similar information does not suffice" as waiver); *Enviro Tech Int'l, Inc. v. EPA*, No. 02-C-4650, slip op. at 15 (N.D. Ill. Mar. 11, 2003) (stating that "courts have refused to find that the discretionary disclosure of a document effectuates a waiver of other related documents"); *Students against Genocide v. Dept. of State*, 50 F. Supp.2d 20, 24-25 (D.D.C. 1999) (stating that "in a series of decisions, this Circuit" has held that "agencies lose FOIA exemptions only when they officially release information or when the exact information is otherwise in the public domain"); *Schiller v. NLRB*, No. 87-1176, slip op. at 7 (D.D.C. July 10, 1990) ("Discretionary release of a document pertains to that document alone, regardless of whether similar documents exist."), *rev'd on other grounds*, 964 F.2d 1205 (D.C. Cir. 1992).

[29]*Army Times v. Dept. of the Air Force*, 998 F.2d 1067, 1068 (D.C. Cir. 1993); *Mobil Oil*, 879 F.2d at 701 (general rule of non-waiver through discretionary release supported by sound policy considerations); *Stone v. FBI*, 727 F. Supp. 662, 669 (D.D.C. 1990) (reasoning that agencies should be free to make "voluntary" disclosures without concern that they "could come back to haunt" them in other cases).

[30]*See* 5 U.S.C. 552(a)(4)(B).

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(OGIS). For more information, please contact OGIS at ogis@nara.gov, www.archives.gov/ogis, or 1-877-684-6448. If you have any questions concerning my determination, please call Celia Jacoby, Senior Counsel, at 202-551-5158.

For the Commission
by delegated authority,

Richard M. Humes
Associate General Counsel

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Exhibit H - Taro Pharmaceutical Industries, Ltd.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2736

Office of FOIA Services

March 7, 2014

Mr. J. Patrick Gavin

P.O. Box 47331
Plymouth MN 55447

RE: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. 14-01226-FOIA

Dear Mr. Gavin:

This is our final response to your request for records located in the main investigative file of any investigation (s) related to the registrant Taro Pharmaceutical Industries Ltd, since October 30, 2011.

After consulting with the staff, we have determined to release the enclosed closing report, which may be responsive to your request.

If you have any questions, please contact me at moodyd@sec.gov or (202) 551-8355. You may also contact me at foiapa@sec.gov or (202) 551-7900.

Sincerely,

Denise R. Moody

Denise R. Moody
FOIA Research Specialist

Enclosure

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NYRO ENORCEMENT FOIA RECOMMENDATION

TO: **Exhibit I** - Internal SEC Memo on Taro Pharmaceutical Industries Request

Office of FOIA Services

FROM: Benedict Jackson, FOIA Liaison
New York Regional Office

RE: FOIA Request No. 14-01226

DATE: November 13, 2013

SUBJECT: J. Patrick Gavin's request for copies of certain main investigative files from October 30, 2011 to October 31, 2013 related to Taro Pharmaceutical Ltd.

In connection with the above referenced subject FOIA request, and in response to your referral to review the files of NY-07565 and NY-07639 for the volume and accessibility of potentially responsive records, we found that the NY-07565 matter is under review for closing and has potentially responsive documents. There are 31 boxes of documents at the Iron Mountain Record Center. Except for PII, attorney client and work product privilege, and information otherwise treated as confidential under FOIA, NYRO has no objection to the disclosure of responsive documents in the files of NY-07565.

As for NY-07639, this investigation was completed in or about June 2008, and the matter was authorized closed as of April 16, 2013. The attached Case Closing Report is the only document found in NY-07639 files that is responsive to the subject request.

Time spent: 30 minutes.

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SEC DIVISION OF ENFORCEMENT

Case Closing Report

As of: 04/16/2013

Matter No.: NY-07639-A **Matter Name:** Taro Pharmaceutical Industries

The undersigned has been designated by the Director of the Division of Enforcement to exercise delegated authority to terminate and close all investigations authorized by the Commission pursuant to Section 20 of the Securities Act of 1933 [15 U.S.C. 77t], Section 21 of the Securities Exchange Act of 1934 [15 U.S.C. 78u], Section 18 of the Public Utility Holding Company Act of 1935 [15 U.S.C. 79r], Section 42 of the Investment Company Act of 1940 [15 U.S.C. 80a-41], and section 209 of the Investment Advisers Act of 1940 [15 U.S.C. 80b-9].

I hereby close this case, pursuant to delegated authority.

Signature

Chief, AMU
Title

4/16/13
Date

Probes Reporter