



**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
NEW YORK REGIONAL OFFICE**

Brookfield Place, 200 Vesey Street
New York, New York 10281

DIVISION OF ENFORCEMENT

VALERIE A. SZCZEPANIK
ASSISTANT REGIONAL DIRECTOR

(b)(7) (b)(6) /
(b)(6) (b)(7) (b)(6) (b)(7)

May 30, 2017

Via Email to (b)(6),(b)(7)(C)

Tesla Motors, Inc.
c/o Bradley J. Bondi, Esq.
Cahill Gordon & Reindel LLP
1990 K Street NW Suite 950
Washington, DC 20006

Re: In the Matter of Tesla Motors, Inc. (NY-9490)

Dear Mr. Bondi:

We have concluded the above-captioned investigation as to Tesla Motors, Inc. Based on the information we have as of this date, we do not intend to recommend an enforcement action by the Commission against Tesla Motors, Inc. We are providing this notice under the guidelines set out in the final paragraph of Securities Act Release No. 5310, which states in part that the notice "must in no way be construed as indicating that the party has been exonerated or that no action may ultimately result from the staff's investigation." (The full text of Release No. 5310 can be found at <http://www.sec.gov/divisions/enforce/wells-release.pdf>.)

Sincerely,

A handwritten signature in blue ink, appearing to read "Valerie A. Szczepanik".

Valerie A. Szczepanik
Assistant Regional Director

NON-PUBLIC

**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
June 7, 2016**

In the Matter of

Tesla Motors, Inc.

NY-9490

**ORDER DIRECTING PRIVATE
INVESTIGATION AND DESIGNATING
OFFICERS TO TAKE TESTIMONY**

I.

The Commission's public official files disclose that:

A. Tesla Motors, Inc. ("Tesla") is a Delaware corporation headquartered in Palo Alto, California. Tesla's common stock is registered with the Commission pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act"). Tesla's common stock trades on the NASDAQ Stock Market. Tesla files periodic reports, including Forms 10-K and 10-Q, with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder. Tesla offered common stock during the relevant time period, specifically between March 2016 through the present.

B. Goldman, Sachs & Co. ("Goldman") is a broker dealer registered with the Commission and is headquartered in New York, New York. Goldman is a subsidiary of The Goldman Sachs Group, Inc., a Delaware corporation with common stock that is registered with the Commission pursuant to Section 12(b) of the Exchange Act and is listed on the New York Stock Exchange.

II.

The Commission has information that tends to show that from at least March 2016:

A. In possible violation of Section 17(a) of the Securities Act of 1933 ("Securities Act") and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, Tesla, its officers, directors, employees, partners, subsidiaries, and/or affiliates and/or other persons or entities, directly or indirectly, in the offer or sale or in connection with the purchase or sale of certain securities, may have been or may be employing devices, schemes, or artifices to defraud, obtaining money or property by means of untrue statements of material fact or omitting to state material facts necessary in order to make the statements made, in light of the circumstances

under which they were or are made, not misleading, or engaging in transactions, acts, practices or courses of business which operated, operate, or would operate as a fraud or deceit upon any person. As part of or in connection with these activities, such persons or entities, directly or indirectly, may have been or may be making false statements of material fact or failing to disclose material facts concerning the Company's Model 3 vehicle.

B. In possible violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, Goldman, its officers, directors, employees, partners, subsidiaries, and/or affiliates and/or other persons or entities, directly or indirectly, in connection with the purchase or sale of certain securities, may have been or may be employing devices, schemes, or artifices to defraud, making untrue statements of material fact or omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were or are made, not misleading, or engaging in acts, practices or courses of business which operated, operate, or would operate as a fraud or deceit upon any person. In connection with these activities, such persons or entities, directly or indirectly, may have been or may be, among other things, trading in the securities of Tesla on the basis of material nonpublic information, or disclosing to others material nonpublic information regarding Tesla, in breach of a fiduciary or other duty arising out of a relationship of trust and confidence.

C. In possible violation of Section 15(g) of the Securities Exchange Act, Goldman may have been or may be failing to establish, maintain, or enforce written policies and procedures reasonably designed to prevent the misuse of material, nonpublic information.

D. While engaged in the above-described activities, such persons or entities, directly or indirectly, may have been or may be making use of any means or instruments of transportation or communication in interstate commerce or of the mails, or of any facility of any national securities exchange.

III.

The Commission, deeming such acts and practices, if true, to be possible violations of Section 17(a) of the Securities Act; Sections 10(b) of the Exchange Act and Rule 10b-5 thereunder; and Section 15(g) of the Exchange Act, finds it necessary and appropriate and hereby:

ORDERS, pursuant to the provisions of: Section 20(a) of the Securities Act and Section 21(a) of the Exchange Act that a private investigation be made to determine whether any persons or entities have engaged in, or are about to engage in, any of the reported acts or practices or any acts or practices of similar purport or object; and

FURTHER ORDERS, pursuant to the provisions of Section 19(c) of the Securities Act and Section 21(b) of the Exchange Act that for purposes of such investigation, (b)(6), (b)(7)(C) and each of them, are hereby designated as officers of the Commission and are empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith as prescribed by law.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.¹

Brent J. Fields
Secretary


By: Jill M. Peterson
Assistant Secretary

¹ 17 CFR 200.30-4(a)(13).

SEC DIVISION OF ENFORCEMENT

Case Closing Report

As of: 05/31/2017



Matter No.: NY-09490-A

Matter Name: Tesla Motors, 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.

A handwritten signature in black ink, appearing to be "L. L. N.", is written over a horizontal line.

Signature

Associate Regional Director

Title

6-6-17

Date



**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
NEW YORK REGIONAL OFFICE**

Brookfield Place, 200 Vesey Street
New York, New York 10281

DIVISION OF ENFORCEMENT

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

June 15, 2016

Via E-Mail

Tesla Motors, Inc.
c/o CT Corporation System
818 West Seventh Street Suite 930
Los Angeles, CA 90017

Re: In the Matter of Tesla Motors, Inc. (NY-9490)

To Whom It May Concern:

The staff of the New York Regional Office of the United States Securities and Exchange Commission is conducting an investigation in the matter identified above. The enclosed subpoena has been issued to you as part of this investigation. The subpoena requires you to provide us documents.

Please read the subpoena and this letter carefully. This letter answers some questions you may have about the subpoena. You should also read the enclosed SEC Form 1662. If you do not comply with this subpoena, the SEC may bring an action in Federal Court to enforce this subpoena. Failure to comply with a court order enforcing this subpoena may result in the court imposing a fine, imprisonment or both.

Producing Documents

What materials do I have to produce?

The subpoena requires you to provide us the documents described in the attachment to the subpoena. You must provide these documents by July 12, 2016. The attachment to the subpoena defines some terms (such as "document") before listing what you must provide.

You should produce each and every document in your possession, custody, or control, including any documents that are not in your immediate possession but that you have the ability to obtain. All responsive documents shall be produced as they are kept in the usual course of business, and shall be organized and labeled to correspond with the numbered paragraphs in the

subpoena attachment. In that regard, documents should be produced in a unitized manner, *i.e.*, delineated with staples or paper clips to identify the document boundaries.

Documents responsive to this subpoena may be in electronic or paper form. Electronic documents such as email should be produced in accordance with the attached document entitled SEC Data Delivery Standards (the “Standards”). If you have any questions concerning the production of documents in an electronic format, please contact me as soon as possible but in any event before producing documents. **All electronic documents responsive to the document subpoena, including all metadata, must also be secured and retained in their native software format and stored in a safe place.** The staff may later request or require that you produce the native format.

For documents in paper format, you may send the originals, or, if you prefer, you may send copies of the originals. The Commission cannot reimburse you for the copying costs. If you are sending copies, the staff requests that you scan (rather than photocopy) hard copy documents and produce them in an electronic format consistent with the Standards. Alternatively, you may send us photocopies of the documents in paper format. **If you choose to send copies, you must secure and retain the originals and store them in a safe place.** The staff may later request or require that you produce the originals.

Whether you scan or photocopy documents, the copies must be identical to the originals, including even faint marks or print. Also, please note that if copies of a document differ in any way, they are considered separate documents and you must send each one. For example, if you have two copies of the same letter, but only one of them has handwritten notes on it, you must send both the clean copy and the one with notes.

If you do send us scanned or photocopied documents, please put an identifying notation on each page of each document to indicate that you produced it, and number the pages of all the documents submitted. (For example, if Jane Doe sends documents to the staff, she may number the pages JD-1, JD-2, JD-3, etc., in a blank corner of the documents.) Please make sure the notation and number do not conceal any writing or marking on the document. If you send us originals, please do not add any identifying notations.

In producing a photocopy of an original document that contains post-it(s), notation flag(s), or other removable markings or attachments which may conceal all or a portion of the markings contained in the original document, photocopies of the original document both with and without the relevant post-it(s), notation flag(s), or removable markings or attachments should be produced.

Do I need to send anything else?

You should enclose a list briefly describing each item you send. The list should state to which numbered paragraph(s) in the subpoena attachment each item responds. A copy of the subpoena should be included with the documents that are produced.

Passwords for documents, files, compressed archives, and encrypted media should be provided separately either via email addressed to ENF-CPU@sec.gov, or in a separate cover letter mailed separately from the data.

Please include a cover letter stating whether you believe you have met your obligations under the subpoena by searching carefully and thoroughly for everything called for by the subpoena, and sending it all to us.

Please also provide a narrative description describing what you did to identify and collect documents responsive to the subpoena. At a minimum, the narrative should describe:

- who searched for documents;
- who reviewed documents found to determine whether they were responsive;
- what sources were searched (e.g., computer files, CDs, DVDs, thumb drives, flash drives, online storage media, hard copy files, diaries, datebooks, planners, filing cabinets, home office, work office, voice mails, home email, webmail, work email, backup tapes or other media);
- what third parties, if any, were contacted to obtain responsive documents (e.g., phone companies for phone records, brokerage firms for brokerage records); and
- where the original electronic and hardcopy documents are maintained and by whom.

For any documents that qualify as records of regularly conducted activities under Federal Rule of Evidence 902(11), please have the appropriate representative(s) of your firm complete a business records certification (a sample of which is enclosed) and return it with the document production.

What if I do not send everything described in the attachment to the subpoena?

The subpoena requires you to send all the materials described in it. If, for any reason – including a claim of attorney-client privilege – you do not produce something called for by the subpoena, you should submit a list of what you are not producing. The list should describe each item separately, noting:

- its author(s);
- its date;
- its subject matter;
- the name of the person who has the item now, or the last person known to have it;
- the names of everyone who ever had the item or a copy of it, and the names of everyone who was told the item's contents;
- the reason you did not produce the item; and
- the specific request in the subpoena to which the document relates.

If you withhold anything on the basis of a claim of attorney-client privilege or attorney work product protection, you should identify the attorney and client involved. If you withhold anything on the basis of the work product doctrine, you should also identify the litigation in anticipation of which the document was prepared.

If documents responsive to this subpoena no longer exist because they have been lost, discarded, or otherwise destroyed, you should identify such documents and give the date on which they were lost, discarded or destroyed.

Where should I send the materials?

Please send the materials to:

ENF-CPU
U.S. Securities and Exchange Commission
100 F St., N.E., Mailstop 5973
Washington, DC 20549-5973

For smaller electronic productions under 10MB in size, the materials may be emailed to the following email address: ENF-CPU@sec.gov.

Other Important Information

May I have a lawyer help me respond to the subpoena?

Yes. You have the right to consult with and be represented by your own lawyer in this matter.

What will the Commission do with the materials I send?

The enclosed SEC Form 1662 includes a List of Routine Uses of information provided to the Commission. This form has other important information for you. Please read it carefully.

Has the Commission determined that anyone has done anything wrong?

This investigation is a non-public, fact-finding inquiry. We are trying to determine whether there have been any violations of the federal securities laws. The investigation and the subpoena do not mean that we have concluded that you or anyone else has broken the law. Also, the investigation does not mean that we have a negative opinion of any person, entity or security.

Important Policy Concerning Settlements

Please note that, in any matter in which enforcement action is ultimately deemed to be warranted, the Division of Enforcement will not recommend any settlement to the Commission unless the party wishing to settle certifies, under penalty of perjury, that all documents

responsive to Commission subpoenas and formal and informal document requests in this matter have been produced.

I have read this letter, the subpoena, and the SEC Form 1662, but I still have questions. What should I do?

If you have any other questions, you may call me at (b)(6),(b)(7)(C). If you are represented by a lawyer, you should have your lawyer contact me.

Sincerely,

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

Counsel
Division of Enforcement

Enclosures: Subpoena and Attachment
SEC Data Delivery Standards
SEC Form 1662
Business Records Certification



SUBPOENA

UNITED STATES OF AMERICA SECURITIES AND EXCHANGE COMMISSION

In the Matter of Tesla Motors, Inc. (NY-9490)

To: Tesla Motors, Inc. c/o CT Corporation System
3500 Deer Creek Road 818 West Seventh Street Suite 930
Palo Alto, CA 94304 Los Angeles, CA 90017

- ☒ **YOU MUST PRODUCE** everything specified in the Attachment to this subpoena to officers of the Securities and Exchange Commission, at the place, date and time specified below:
- ENF-CPU, U.S. Securities and Exchange Commission, 100 F St., N.E., Mailstop 5973, Washington, DC 20549-5973, no later than July 12, 2016 at 5:00 p.m.
- ☐ **YOU MUST TESTIFY** before officers of the Securities and Exchange Commission, at the place, date and time specified below:

FEDERAL LAW REQUIRES YOU TO COMPLY WITH THIS SUBPOENA.

If you do not comply with this subpoena, the SEC may bring an action in Federal Court to enforce this subpoena. Failure to comply with a court order enforcing this subpoena may result in the court imposing a fine, imprisonment, or both.

By:

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

Date: 6/15/16

U.S. Securities and Exchange Commission
Brookfield Place, 200 Vesey Street
New York, New York 10281

I am an officer of the U.S. Securities and Exchange Commission authorized to issue subpoenas in this matter. The Securities and Exchange Commission has issued a formal order authorizing this investigation under: Section 20(a) of the Securities Act of 1933 and Section 21(a) of the Securities Exchange Act of 1934.

NOTICE TO WITNESS: If you claim a witness fee or mileage, submit this subpoena with the claim voucher.

SUBPOENA ATTACHMENT FOR TESLA MOTORS, INC.

June 15, 2016

In the Matter of Tesla Motors, Inc. (NY-9490)

A. Definitions

As used in this subpoena, the words and phrases listed below shall have the following meanings:

1. “Document” shall include, but is not limited to, any written, printed, or typed matter including, but not limited to all drafts and copies bearing notations or marks not found in the original, letters and correspondence, interoffice communications, slips, tickets, records, worksheets, financial records, accounting documents, bookkeeping documents, memoranda, reports, manuals, telephone logs, telegrams, facsimiles, messages of any type, telephone messages, voice mails, tape recordings, notices, instructions, minutes, summaries, notes of meetings, file folder markings, and any other organizational indicia, purchase orders, information recorded by photographic process, including microfilm and microfiche, computer printouts, spreadsheets, and other electronically stored information, including but not limited to writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations that are stored in any medium from which information can be retrieved, obtained, manipulated, or translated.
2. “Person” means a natural person, firm, association, organization, partnership, business, trust, corporation, bank or any other private or public entity.
3. “Communication” means any correspondence, contact, discussion, e-mail, text message, instant message, recorded conversation, or any other kind of oral or written exchange or transmission of information (in the form of facts, ideas, inquiries, or otherwise) and any response thereto between two or more Persons or entities, including, without limitation, all telephone conversations, face-to-face meetings or conversations, internal or external discussions, or exchanges of a Document or Documents.
4. “Concerning” means directly or indirectly, in whole or in part, describing, constituting, evidencing, recording, evaluating, substantiating, concerning, referring to, alluding to, in connection with, commenting on, relating to, regarding, discussing, showing, describing, analyzing or reflecting.
5. To the extent necessary to bring within the scope of this request any information or Documents that might otherwise be construed to be outside its scope:
 - a. the word “or” means “and/or”;
 - b. the word “and” means “and/or”;
 - c. the functional words “each,” “every” “any” and “all” shall each be deemed to include each of the other functional words;
 - d. the masculine gender includes the female gender and the female gender includes the masculine gender; and

Documents Obtained by Probes Reporter, LLC

- e. the singular includes the plural and the plural includes the singular.

B. Instructions

1. Unless otherwise specified, the subpoena calls for production of the original Documents and all copies and drafts of same. Documents responsive to this subpoena may be in electronic or paper form. Electronic Documents such as email should be produced in accordance with the attached Document entitled SEC Data Delivery Standards. All electronic Documents responsive to the Document subpoena, including all metadata, should also be produced in their native software format.
2. For Documents in paper format, you may send the originals, or, if you prefer, you may send copies of the originals. The Commission cannot reimburse you for the copying costs. If you are sending copies, the staff requests that you scan (rather than photocopy) hard copy Documents and produce them in an electronic format consistent with the SEC Data Delivery Standards. Alternatively, you may send us photocopies of the Documents in paper format. If you choose to send copies, you must secure and retain the originals and store them in a safe place. The staff may later request or require that you produce the originals.
3. Whether you scan or photocopy Documents, the copies must be identical to the originals, including even faint marks or print. Also, please note that if copies of a Document differ in any way, they are considered separate Documents and you must send each one. For example, if you have two copies of the same letter, but only one of them has handwritten notes on it, you must send both the clean copy and the one with notes.
4. In producing a photocopy of an original Document that contains post-it(s), notation flag(s), or other removable markings or attachments which may conceal all or a portion of the markings contained in the original Document, photocopies of the original Document both with and without the relevant post-it(s), notation flag(s), or removable markings or attachments should be produced.
5. Documents should be produced as they are kept in the ordinary course of business or be organized and labeled to correspond with the categories in this request. In that regard, Documents should be produced in a unitized manner, i.e., delineated with staples or paper clips to identify the Document boundaries.
6. Documents should be labeled with sequential numbering (bates-stamped).
7. You must produce all Documents created during, or Concerning, the period March 1, 2016 to the present, unless otherwise specified.
8. The scope of any given request should not be limited or narrowed based on the fact that it calls for Documents that are responsive to another request.

Documents Obtained by Probes Reporter, LLC

9. You are not required to produce exact duplicates of any Documents that have been previously produced to the Securities and Exchange Commission staff **in connection with this matter**. If you are not producing Documents based upon a prior production, please identify the responsive Documents that were previously produced.
10. For any Documents that qualify as records of regularly conducted activities under Federal Rule of Evidence 902(11), please complete a business records certification (a sample of which is enclosed) and return it with the Document production.
11. This subpoena covers all Documents in or subject to your possession, custody or control, including all Documents that are not in your immediate possession but that you have the ability to obtain, that are responsive, in whole or in part, to any of the individual requests set forth below. If, for any reason – including a claim of attorney-client privilege – you do not produce something called for by the request, you should submit a list of what it is not producing. The list should describe each item separately, noting:
 - a. its author(s);
 - b. its date;
 - c. its subject matter;
 - d. the name of the Person who has the item now, or the last Person known to have it;
 - e. the names of everyone who ever had the item or a copy of it, and the names of everyone who was told the item's contents;
 - f. the basis upon which you are not producing the responsive Document;
 - g. the specific request in the subpoena to which the Document relates;
 - h. the attorney(s) and the client(s) involved; and
 - i. in the case of the work product doctrine, the litigation for which the Document was prepared in anticipation.
12. If Documents responsive to this subpoena no longer exist because they have been lost, discarded, or otherwise destroyed, you should identify such Documents and give the date on which they were lost, discarded or destroyed.

C. Documents to be Produced

1. All press releases, social media posts, and transcripts of teleconferences and meetings, including with analysts and investors, concerning reservations for the Model 3.
2. All press releases, social media posts, and transcripts of teleconferences and meetings, including with analysts and investors, concerning plans for filling Model 3 orders, including projected production and delivery timelines and rates.
3. Documents concerning the number of reservations placed for the Model 3.
4. Documents concerning the source of orders placed for the Model 3, including

Documents Obtained by Probes Reporter, LLC

information collected by Tesla regarding customer names, credit card numbers, IP addresses, or other order-identifying information.

5. Documents concerning any orders for the Model 3 that were cancelled by Tesla or by a customer.
6. Documents concerning any refund requests Tesla has received from customers who placed reservations for the Model 3 and any refund requests that Tesla has processed.
7. Documents concerning the revised total of 373,000 reservations announced by Tesla in its May 18, 2015 offering prospectus.
8. All press releases, social media posts, and transcripts of teleconferences and meetings, including with analysts and investors, concerning how deposits for the Model 3 have been used or will be used by the Company.
9. Documents concerning how Tesla has used or plans to use deposits for the Model 3.
10. Documents concerning Tesla's accounting treatment for deposits for the Model 3.
11. Documents sufficient to identify all Persons who had knowledge of Tesla's stock offering prior to the Company's announcement in its Prospectus Supplement dated May 18, 2016 and filed by Tesla Motors, Inc. ("Tesla") with the SEC, and available at: <https://www.sec.gov/Archives/edgar/data/1318605/000119312516596657/d185970d424b5.htm>, including their full names, titles, roles and responsibilities, telephone numbers, email addresses, and office locations.
12. Documents sufficient to identify all Persons who assisted with, were involved in, or had knowledge of the content of the May 18, 2016 analyst report issued by Goldman, Sachs & Co. concerning Tesla, including their full names, titles, roles and responsibilities, telephone numbers, email addresses, and office locations.
13. All documents concerning all actual, proposed or contemplated alterations, modifications or destruction of any document responsive to the Items to be produced or preserved, including, but not limited to, any court order or policy, practice or procedure related to the maintenance, preservation, modification, recycling or destruction of documents.

D. Preservation Notice

Maintain and preserve all documents specified above in Section C, as well as all documents concerning Tesla's stock offering in Item C.11 and the Goldman, Sachs & Co. analyst report in Item C.12.