

Exhibit A

PLAINT
29816
7-13

THE
LAWSHEET CORPORATION

100 CHURCH ST, 8TH FLOOR
NEW YORK, NY 10007

(203) 928 8486
(203) 902 0070 FAX
FOIA@LAWSHEET.COM

January 14, 2021

Office of Freedom of Information Act Services
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: FOIA Request re: Deposition Transcript of Elizabeth A. Holmes

Dear FOIA Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552.

I request copies of the following records:

- Transcripts of testimony given by Elizabeth A. Holmes at deposition in any civil action to which the Commission was a party; and
- Video recording of such testimony, if the said testimony was recorded by video.

This request concerns, without limitation, the following civil actions:

- *Securities and Exchange Commission v. Holmes et al.*, No. 5:18-cv-01602 (EJD) (N.D. Cal.)
- *Securities and Exchange Commission v. Ramesh Sunny Balwani*, No. 5:18-cv-01603 (EJD) (N.D. Cal.)

Under the statute, an agency record is subject to disclosure unless a specific exemption applies. See 5 U.S.C. § 552(b)(1)-(9). FOIA mandates a “strong presumption in favor of disclosure”. *Chiquita Brands Int’l Inc. v. Sec. & Exch. Comm’n*, 805 F.3d 289, 294 (D.C. Cir. 2015). Exemptions are construed these exemptions narrowly and place the burden of proof on the party opposing disclosure. See, e.g., *Elec. Privacy Info. Ctr. v. U.S. Dep’t of Homeland Sec.*, 777 F.3d 518, 522 (D.C. Cir. 2015).

If you claim a statutory exemption, (1) acknowledge whether the records are in your

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custody and control, and (2) state with particularity the grounds for non-disclosure. For example, if you claim non-disclosure on the grounds that release would “interfere with enforcement proceedings,” 5 U.S.C. § 552(b)(7)(A), identify the proceedings, including the docket number, explain how disclosure would interfere with these enforcement proceedings.

I am willing to pay fees for this request up to a maximum of \$100. If you estimate that the fees will exceed this limit, please inform me before processing my request.

If you have any questions regarding this request, please contact me at (203) 928-8486 during regular business hours. All written communication should be directed to foia@lawsheet.com.

I look forward to receiving your response within twenty days.

Very truly yours,

/s/ Jakub J. Madej

cc: --

Exhibit B



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

February 03, 2021

Mr. Jakub J. Madej
The LawSheet Corporation
100 Church Street, 8th Floor
New York, NY 10007

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **21-00819-FOIA**

Dear Mr. Madej:

This letter is an acknowledgment of your FOIA request dated January 14, 2021, and received in this office on January 27, 2021, for records regarding deposition transcript of Elizabeth A. Holmes.

Your request has been assigned tracking number 21-00819-FOIA. Your request will be assigned to a Research Specialist for processing and you will be notified of the findings as soon as possible. If you do not receive a response after thirty business days from when we received your request, you have the right to seek dispute resolution services from an SEC FOIA Public Liaison or the Office of Government Information Services (OGIS). A list of SEC FOIA Public Liaisons can be found on our agency website at <https://www.sec.gov/oso/contact/foia-contact.html>. OGIS can be reached at 1-877-684-6448 or [Archives.gov](https://www.archives.gov) or via email at ogis@nara.gov.

In the interim, if you have any questions about your request, you may contact this office by calling (202) 551-7900, or sending an e-mail to foiapa@sec.gov. Please refer to your tracking number when contacting us.

For additional information, please visit our website at www.sec.gov and follow the FOIA link at the bottom.

Sincerely,

Office of FOIA Services

Exhibit C



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

February 26, 2021

Mr. Jakub J. Madej
The LawSheet Corporation
100 Church Street
8th Floor
New York, NY 10007

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **21-00819-FOIA**

Dear Mr. Madej:

This letter responds to your request, dated January 14, 2021 and received in this office on January 27, 2021, for transcripts or video recordings of testimony given by Elizabeth A. Holmes in the civil actions described in your request.

We are withholding records that may be responsive to your request under 5 U.S.C. § 552(b)(7)(A). This exemption protects from disclosure records compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement activities. Since Exemption 7(A) protects the records from disclosure, we have not determined if other exemptions apply. Therefore, we reserve the right to assert other exemptions when Exemption 7(A) no longer applies.

It is the general policy of the Commission to conduct its investigations on a non-public basis. Thus, subject to the provisions of FOIA, the Commission does not disclose the existence or non-existence of an investigation or information gathered unless made a matter of public record in proceedings brought before the Commission or in the courts. Accordingly, the assertion of this exemption should not be construed as an indication by the Commission or its staff that any violations of law have occurred with respect to any person, entity, or security.

I am the deciding official with regard to this adverse determination. You have the right to appeal my decision to the SEC's General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(f)(1). The appeal must be received within ninety (90) calendar days of the date of this adverse decision. Your appeal must be in writing, clearly marked "Freedom of Information Act

Jakub J. Madej
February 26, 2021
Page Two

21-00819-FOIA

Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

You may file your appeal by completing the online Appeal form located at https://www.sec.gov/forms/request_appeal, or mail your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2465, Washington, D.C. 20549, or deliver it to Room 1120 at that address.

If you have any questions, please contact Frank Mandic of my staff at mandicf@sec.gov. You may also contact me at foiapa@sec.gov or (202) 551-7900. You may also contact the SEC's FOIA Public Service Center at foiapa@sec.gov or (202) 551-7900. For more information about the FOIA Public Service Center and other options available to you please see the attached addendum.

Sincerely,



Lizzette Katilius
FOIA Branch Chief

Enclosure

PLAINT
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ADDENDUM

For further assistance you can contact a SEC FOIA Public Liaison by calling (202) 551-7900 or visiting <https://www.sec.gov/oso/help/foia-contact.html>.

SEC FOIA Public Liaisons are supervisory staff within the Office of FOIA Services. They can assist FOIA requesters with general questions or concerns about the SEC's FOIA process or about the processing of their specific request.

In addition, you may also contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. OGIS can be reached at 1-877-684-6448 or via e-mail at ogis@nara.gov. Information concerning services offered by OGIS can be found at their website at [Archives.gov](https://www.archives.gov). Note that contacting the FOIA Public Liaison or OGIS does not stop the 90-day appeal clock and is not a substitute for filing an administrative appeal.

Exhibit D

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LAWSHEET CORPORATION

100 CHURCH ST, 8TH FLOOR
NEW YORK, NY 10007

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FOIA@LAWSHEET.COM

February 27, 2021

BY CERTIFIED MAIL AND EMAIL (foiapa@sec.gov)

Mr. Michael A. Conley
Acting General Counsel
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Securities and Exchange Commission
Office of FOIA Services
Attn: FOIA Appeals
100 F Street NE, Mail Stop 2465
Washington, DC 20549

**Re: Freedom of Information Act (FOIA) Appeal, 5 U.S.C. § 552(a)(6)
Request No. 21-00819-FOIA**

Dear Counsel:

This is an appeal from the FOIA Officer's denial of my January 14, 2021 Freedom of Information Act (FOIA) request for the transcripts and video recordings from a deposition of Ms. Elizabeth Holmes in connection to two civil actions the Commission brought in the Northern District of California. By letter dated February 26, 2021, the FOIA Officer denied my request, purporting to claim Exemption 7(A).

I have reviewed the Officer's letter and determined that the FOIA Officer incorrectly asserted Exemption 7(A). There is a three-step test to establish whether information is protected under Exemption 7(A). To satisfy this test, the Commission must demonstrate that "disclosure (1) could reasonably be expected to interfere with (2) enforcement proceedings that are (3) pending or reasonably anticipated." *Mapother v. Dep't of Justice*, 3 F.3d 1533, 1540 (D.C. Cir. 1993) (emphasis omitted). The Officer's response does not satisfy even one element of this inquiry.

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The February 26 response lacks any facts suggesting that an enforcement proceeding against Ms. Holmes is pending or anticipated. In fact, the Commission has settled the case against Ms. Holmes in March 2018. *See* Case No. 5:18-cv-01602-EJD, Doc. 10 (N.D. Cal., Mar 27, 2018). Neither does the officer contend that – and if so, how – disclosing the requested transcripts could be expected to interfere with such proceedings.

FOIA mandates a “strong presumption in favor of disclosure.” *Chiquita Brands Int’l Inc. v. Sec. & Exch. Comm’n*, 805 F.3d 289, 294 (D.C. Cir. 2015). The initial burden is on the Commission to establish reasons against disclosure. Clearly, the Commission failed to meet its initial burden here.

Even assuming *arguendo* that the Commission could correctly claim Exemption 7(A), it must furnish affidavits to establish facts warranting non-disclosure. Courts routinely disregard mere explanations unsupported by sworn declarations. *See, e.g., Citizens for Responsibility & Ethics in Washington v. U.S. Dep’t of Justice*, 746 F.3d 1082, 1088 (D.C. Cir. 2014) (the agency must submit “affidavits that describe the justifications for nondisclosure with reasonably specific detail” to establish that a claimed exemption applies). If the Commission insists on withholding the transcripts under Exemption 7(A) and is able to assert specific facts to carry its initial burden, I respectfully request that the Commission furnish affidavits together with its response to this appeal.

I am informed that that the Commission has previously released portions of the testimony sought to the media, including ABC News. *See* <https://abcnews.go.com/Business/theranos-ceo-elizabeth-holmes-600-times-broadcast-deposition/story?id=60576630> (last visited Feb. 26, 2021).

It is my intention to promptly commence litigation if the Commission insists on withholding the requested transcripts. I kindly ask that you provide a response within 14 business days. If I don’t hear back from you within that timeframe, I will assume that the Commission continues to claim Exemption 7(A).

If you need to discuss this request, I can be reached at (203) 928-8486 during regular business hours.

Thank you for your consideration of this appeal.

Very truly yours,

/s/ Jakub J. Madej

cc: -

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LAWSHEET CORPORATION

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NEW YORK, NY 10007

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January 14, 2021

Office of Freedom of Information Act Services
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: FOIA Request re: Deposition Transcript of Elizabeth A. Holmes

Dear FOIA Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552.

I request copies of the following records:

- Transcripts of testimony given by Elizabeth A. Holmes at deposition in any civil action to which the Commission was a party; and
- Video recording of such testimony, if the said testimony was recorded by video.

This request concerns, without limitation, the following civil actions:

- *Securities and Exchange Commission v. Holmes et al.*, No. 5:18-cv-01602 (EJD) (N.D. Cal.)
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Under the statute, an agency record is subject to disclosure unless a specific exemption applies. See 5 U.S.C. § 552(b)(1)-(9). FOIA mandates a "strong presumption in favor of disclosure". *Chiquita Brands Int'l Inc. v. Sec. & Exch. Comm'n*, 805 F.3d 289, 294 (D.C. Cir. 2015). Exemptions are construed these exemptions narrowly and place the burden of proof on the party opposing disclosure. See, e.g., *Elec. Privacy Info. Ctr. v. U.S. Dep't of Homeland Sec.*, 777 F.3d 518, 522 (D.C. Cir. 2015).

If you claim a statutory exemption, (1) acknowledge whether the records are in your

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I am willing to pay fees for this request up to a maximum of \$100. If you estimate that the fees will exceed this limit, please inform me before processing my request.

If you have any questions regarding this request, please contact me at (203) 928-8486 during regular business hours. All written communication should be directed to foia@lawsheet.com.

I look forward to receiving your response within twenty days.

Very truly yours,

/s/ Jakub J. Madej

cc: --



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

February 26, 2021

Mr. Jakub J. Madej
The LawSheet Corporation
100 Church Street
8th Floor
New York, NY 10007

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **21-00819-FOIA**

Dear Mr. Madej:

This letter responds to your request, dated January 14, 2021 and received in this office on January 27, 2021, for transcripts or video recordings of testimony given by Elizabeth A. Holmes in the civil actions described in your request.

We are withholding records that may be responsive to your request under 5 U.S.C. § 552(b)(7)(A). This exemption protects from disclosure records compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement activities. Since Exemption 7(A) protects the records from disclosure, we have not determined if other exemptions apply. Therefore, we reserve the right to assert other exemptions when Exemption 7(A) no longer applies.

It is the general policy of the Commission to conduct its investigations on a non-public basis. Thus, subject to the provisions of FOIA, the Commission does not disclose the existence or non-existence of an investigation or information gathered unless made a matter of public record in proceedings brought before the Commission or in the courts. Accordingly, the assertion of this exemption should not be construed as an indication by the Commission or its staff that any violations of law have occurred with respect to any person, entity, or security.

I am the deciding official with regard to this adverse determination. You have the right to appeal my decision to the SEC's General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(f)(1). The appeal must be received within ninety (90) calendar days of the date of this adverse decision. Your appeal must be in writing, clearly marked "Freedom of Information Act

Jakub J. Madej
February 26, 2021
Page Two

21-00819-FOIA

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If you have any questions, please contact Frank Mandic of my staff at mandicf@sec.gov. You may also contact me at foiapa@sec.gov or (202) 551-7900. You may also contact the SEC's FOIA Public Service Center at foiapa@sec.gov or (202) 551-7900. For more information about the FOIA Public Service Center and other options available to you please see the attached addendum.

Sincerely,



Lizzette Katilius
FOIA Branch Chief

Enclosure

ADDENDUM

For further assistance you can contact a SEC FOIA Public Liaison by calling (202) 551-7900 or visiting <https://www.sec.gov/oso/help/foia-contact.html>.

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Exhibit E

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



OFFICE OF THE
GENERAL COUNSEL

Stop 9613

March 10, 2021

Via electronic mail
foia@lawsheet.com

Mr. Jakub J. Madej
The LawSheet Corporation
100 Church Street, 8th Floor
New York, NY 10007

Re: Appeal, Freedom of Information Act Request No. 21-00819-FOIA, designated on
appeal as No. 21-00223-APPS

Dear Mr. Madej:

This responds to your Freedom of Information Act (FOIA) appeal of the FOIA Officer's denial of your January 27, 2021 FOIA request for (1) the transcripts of testimony given by Elizabeth A. Holmes in the civil actions identified in your request and (2) the video recording of such testimony, if the said testimony was recorded by video. By letter dated February 26, 2021, the FOIA Officer denied your request pursuant to FOIA Exemption 7(A). On March 1, 2021, you filed this appeal challenging the FOIA Officer's invocation of Exemption 7(A).

I have reviewed your appeal and determined that FOIA Exemption 7(A) no longer applies to the requested records. I am, therefore, remanding your request to the FOIA Officer for processing. As the FOIA Officer previously advised you, no determination regarding the applicability of any other FOIA exemption was made and the right to assert other exemptions was reserved. On remand, the FOIA Officer will determine the applicability of other FOIA exemptions and address any confidential treatment requests applicable to the information you seek. You may contact Lizzette Katilius, FOIA Branch Chief, at 202-551-7900, regarding the status of this matter on remand. If you have any questions concerning my determination, please contact Mark Tallarico, Senior Counsel, at 202-551-5132.

For the Commission
by delegated authority,

A handwritten signature in cursive script that reads "Melinda Hardy".

Melinda Hardy
Assistant General Counsel for
Litigation and Administrative Practice

Exhibit F



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

March 10, 2021

Mr. Jakub J. Madej
The LawSheet Corporation
100 Church Street, 8th Floor
New York, NY 10007

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Appeal No. 21-00223-APPS (Request No. 21-00819-FOIA)

Dear Mr. Madej:

This letter is an acknowledgment of the Office of General Counsels remand of your FOIA appeal, dated and received in this office on March 10, 2021, regarding deposition transcript of Elizabeth A. Holmes.

Your remand has been assigned tracking number **21-00036-REMD**. Your request will be assigned to a Research Specialist for processing and you will be notified of the findings as soon as possible. If you do not receive a response after thirty business days from when we received your remanded request you have the right to seek dispute resolution services from an SEC FOIA Public Liaison or the Office of Government Information Services (OGIS). A list of SEC FOIA Public Liaisons can be found on our agency website at <https://www.sec.gov/oso/contact/foia-contact.html>. OGIS can be reached at 1-877-684-6448 or [Archives.gov](https://www.archives.gov) or via email at ogis@nara.gov.

In the interim, if you have any questions about your request, you may contact this office by calling 202-551-7900, or sending an e-mail message to foiapa@sec.gov. Please refer to your tracking number when contacting us.

Sincerely,

Office of FOIA Services

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAKUB MADEJ,

Plaintiff,

v.

SECURITIES AND EXCHANGE
COMMISSION,

Defendant.

Civil Action No. 21-cv-_____

JURY TRIAL DEMANDED

APRIL 5, 2021

Freedom of Information Act
5 U.S.C. § 552

NOTICE OF APPEARANCE

Please enter the appearance of Jakub Madej for the plaintiff.

Respectfully submitted,

DATED: April 5, 2021.

By: /s/ Jakub Madej _____

Jakub J. Madej
415 Boston Post Rd, Ste 3-1102
Milford, CT 06460
T: (203) 928-8486
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E: j.madej@lawsheet.com