



Office of the Chief
Records Officer for the
U.S. Government

Sent Via Email. No Hard Copy to Follow.

July 18, 2022

Curt Francisco
Securities and Exchange Commission
100 F Street, NE
Room 1109/SP1
Washington, DC 20549

Dear Curt Francisco,

The National Archives and Records Administration (NARA) received your report regarding the inadvertent destruction and loss of some Confidential Treatment Material records within the Division of Corporation Finance (CorpFin) prior to the end of the NARA-approved retention period of a temporary record under disposition authority DAA-0266-2019-0002-0001, with a 3-year retention.

A FOIA request in 2022 led CorpFin to discover that 17 out of the over 4,300 documents that were transferred sometime in 2021 to the Litigation Hold folder from the SharePoint active directory were inadvertently deleted. These records were destroyed 2 to 13 days prior to the end of their NARA-approved retention periods.

We understand that several unsuccessful attempts were initiated to reconstruct the destroyed files. To mitigate future risk of this issue recurring, the SEC replaced the manual transfer process with an automated transfer process and added a manual reconciliation process to confirm that all records are properly transferred, saved, and backed up within the system.

While your report meets all the requirements outlined in 36 CFR 1230.14(a), we are requesting written confirmation from your agency that the 17 records referred to in your initial report are not the records that were requested as part of the Freedom of Information Act Request Nos. 21-01415-E, et al., and designated on appeal as No. 21-00183-APPS or the associated litigation (Civil No. 3:21-cv-866), which we discussed with you when the BioScience Advisors lawsuit was

filed. I appreciate your attention to this important matter. If you have any questions or wish to discuss further, please contact me at laurence.brewer@nara.gov.

Sincerely,

A handwritten signature in blue ink that reads "Laurence V. Brewer". The signature is written in a cursive style with a blue ink color.

LAURENCE BREWER
Chief Records Officer
for the U.S. Government



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November 8, 2022

Curt Francisco
Securities and Exchange Commission
100 F Street, NE
Room 1109/SP1
Washington, DC 20549

Dear Curt Francisco,

The National Archives and Records Administration (NARA) received your response dated August 17, 2022 to our letter, dated July 18, 2022 that requested a written confirmation that the 17 records referred to in your initial report (Confidential Treatment Material records within the Division of Corporation Finance (CorpFin)) were not requested as part of the Freedom of Information Act Request Nos. 21-01415-E, et al., and designated on appeal as No. 21-00183-APPS or the associated litigation (Civil No. 3:21-cv-866)).

Thank you very much for your confirmation that these 17 records are not part of the aforementioned FOIA request or associated litigation. Accordingly, NARA considers this matter resolved.

I appreciate your attention to this important matter. If you have any questions or wish to discuss further, please contact me at laurence.brewer@nara.gov.

Sincerely,

LAURENCE BREWER
Chief Records Officer
for the U.S. Government