

1 Gary J. Aguirre (SBN 38927)
Aguirre Law, APC
2 501 W. Broadway, Ste. 800
San Diego, CA 92101
3 Tel: 619-400-4960
Fax: 619-501-7072
4 Email: Gary@aguirrelawfirm.com

5 Attorney for Plaintiff Richard Edelman

6 Adam Braverman
7 United States Attorney
Katherine L. Parker
8 Assistant U.S. Attorney
California Bar No. 222629
9 Office of the U.S. Attorney
880 Front Street, Room 6293
10 San Diego, CA 92101
Tel: (619) 546-7634
11 Fax: (619) 546-7751
Email: Katherine.parker@usdoj.gov

12 Attorneys for the Defendant

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15 **UNITED STATES DISTRICT COURT**
16 **SOUTHERN DISTRICT OF CALIFORNIA**
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18 Case No.: 15-CV-2750-BEN-BGS

19 RICHARD EDELMAN,

20 Plaintiff,

21 v.

22 UNITED STATES SECURITIES AND
23 EXCHANGE COMMISSION,

24 Defendant.
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**RENEWED JOINT MOTION FOR
ORDER (1) RESOLVING PENDING
SUMMARY JUDGMENT MOTION
AND (2) SCHEDULING OF
MOTIONS ON OPEN ISSUES**

1 The parties to this case submit this renewed joint motion to correct a lack of clarity
2 in their prior joint motion (ECF No. 38), and also to renew that joint motion. In summary,
3 this case involves a Freedom of Information Act Request dated February 9, 2015 from
4 Plaintiff to the Securities and Exchange Commission. (ECF No. 1, ¶ 9.) The SEC
5 located over 40,000 pages of responsive records, but through this litigation the issues
6 have been narrowed. Specifically, Plaintiff has narrowed his request to 118 remaining
7 records. Those 118 records are responsive to the February 9, 2015 FOIA request, Plaintiff
8 has exhausted his administrative remedies with respect to those records, and the records
9 are at issue in this litigation. Accordingly, the parties seek to streamline this litigation
10 with the goal of bringing it to a complete resolution regarding those records and
11 Plaintiff's motion for attorney's fees.

12 The parties jointly represent to the Court:

- 13 1. The SEC has withdrawn all exemptions, including Exemption 4, which it
14 asserted in withholding the records described in Document Nos. 1 through 23 in
15 the Vaughn index ("Vaughn Index") filed with the Court (Dkt. No. 22-2 at 1-
16 15), except the SEC reserves its claim to withhold investors' personal
17 information (e.g., email addresses, phone numbers, home addresses, social
18 security numbers, and drivers' license numbers) on the grounds of personal
19 privacy under Exemptions 6 and 7(C);
- 20 2. On December 6 and 7, 2017, the SEC produced the records listed at lines 1-23
21 of the Vaughn Index, redacting only investors' personal information;
- 22 3. In his prior summary judgment motion (Dkt. Nos. 23 through 23-6), Edelman
23 did not seek the release of the records described as Document Nos. 24 through
24 51 in the Vaughn Index to which the SEC has asserted Exemption 5; for the
25 purpose of this joint motion, Edelman has withdrawn any claim for said
26 records;
- 27 4. In his summary judgment motion (*Id.*), Edelman disputed the SEC's assertion
28 of Exemption 5 in withholding Document No. 52 (the SEC's Case Closing

1 Recommendation); for the purpose of this joint motion, Edelman has withdrawn
2 any claim for said record;

- 3 5. For the purpose of this motion, Edelman does not dispute the SEC’s contention
4 that the declarations filed in support of its renewed motion for summary
5 judgment (Dkt. Nos. 37-2, 37-4 and 37-5) establish that the SEC conducted a
6 reasonable search of its records, as ordered by the court (Dkt. No. 31 at 18);
- 7 6. In light of the parties’ agreements and representations above regarding the
8 issues were previously raised in motions for partial summary judgment, there
9 are now 118 documents remaining at issue in this litigation. Those 118 records
10 were identified by Plaintiff on the index of records released by the SEC
11 pursuant to the Court’s September 27, 2017, order (Dkt. No. 31). The SEC does
12 not contest administrative exhaustion with respect to the remaining 118 records.
13 These 118 records are a subset of ~44,000 pages of responsive records which
14 were located by the SEC during the administrative appeal process, as discussed
15 in the declaration of Carin Cozza, ECF No. 22-2 at ¶¶ 13-14.
- 16 7. The parties propose the following schedule for the summary judgment motions
17 in relation to the remaining 118 records: the SEC shall file its motion for
18 summary judgment on or before June 1, 2018, and further agrees it will not seek
19 an extension of this deadline; Edelman shall file his opposition and his
20 summary judgment motion on or before July 2, 2018; the SEC’s opposition
21 brief and the parties’ reply briefs shall be filed in accordance with the Local
22 Rules.
- 23 8. Edelman intends to move for attorney’s fees. The parties propose briefing on
24 after the court rules on the summary judgments relating to the 118 records
25 referenced above.
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1 Dated: December 17, 2017

Respectfully submitted,

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3 By: /s/ Gary J. Aguirre
4 GARY J. AGUIRRE
5 Attorney for Plaintiff

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7 Adam Braverman
8 United States Attorney

9 s/ Katherine L. Parker
10 Katherine L. Parker
11 Assistant U.S. Attorney
12 Attorneys for Defendant

13 I certify, pursuant to the local rules, that the above document acceptable to all signatory
14 counsel, who have given their authorization to affix their electronic signatures.

15 Dated: December 17, 2017

 s/ Katherine L. Parker
Katherine L. Parker