

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

EMPOWER OVERSIGHT
WHISTLEBLOWERS & RESEARCH,

Plaintiff,

v.

U.S. SECURITIES AND EXCHANGE
COMMISSION,

Defendant.

No. 1:21-cv-1370-RDA-TCB

ANSWER

Defendant U.S. Securities and Exchange Commission (“SEC”) hereby responds to each numbered paragraph of Plaintiff Empower Oversight Whistleblowers & Research’s Complaint as follows:

INTRODUCTION

1. The allegations in this paragraph consist of Plaintiff’s characterization of the nature of this action, to which no response is required.
2. The allegations in this paragraph consist of Plaintiff’s characterization of the nature of this action, to which no response is required.
3. The allegations in this paragraph consist of Plaintiff’s characterization of publicly available press releases and articles, to which no response is required.
4. The allegations in this paragraph consist of Plaintiff’s characterization of publicly available websites and articles, to which no response is required.

5. The SEC admits that it filed an action against Ripple Labs Inc. and two of its executives. The remainder of the allegations in this paragraph consist of Plaintiff's characterization of publicly available press releases and articles, to which no response is required.

6. The allegations in this paragraph consist of Plaintiff's characterization of publicly available articles, to which no response is required.

7. The SEC admits that Plaintiff submitted a FOIA request on August 12, 2021. The remainder of the allegations in this paragraph consist of Plaintiff's characterization of this action, to which no response is required.

JURISDICTION AND VENUE

8. The allegations in this paragraph consist of legal conclusions, to which no response is required.

9. The allegations in this paragraph consist of legal conclusions, to which no response is required.

PARTIES

10. The SEC lacks knowledge or information sufficient to admit or deny the allegations in this paragraph.

11. The SEC admits that it is an agency of the United States government for purposes of the Freedom of Information Act (FOIA) and that its headquarters are located at 100 F Street NE, Washington D.C. 20549. The SEC admits that it is in possession, custody, and control of certain records responsive to Plaintiff's August 12, 2021 FOIA request.

LEGAL STANDARD

12. The allegations in this paragraph consist of statements of law, to which no response is required. The SEC refers to the FOIA and the SEC's FOIA regulations for a complete and accurate recitation of their provisions.

13. The allegations in this paragraph consist of statements of law, to which no response is required. The SEC refers to the FOIA and the SEC's FOIA regulations for a complete and accurate recitation of their provisions.

14. The allegations in this paragraph consist of statements of law, to which no response is required. The SEC refers to the FOIA and the SEC's FOIA regulations for a complete and accurate recitation of their provisions.

15. The allegations in this paragraph consist of statements of law, to which no response is required. The SEC refers to the FOIA and the SEC's FOIA regulations for a complete and accurate recitation of their provisions.

16. The allegations in this paragraph consist of statements of law, to which no response is required. The SEC refers to the FOIA and the SEC's FOIA regulations for a complete and accurate recitation of their provisions.

17. The SEC admits that Plaintiff submitted a FOIA request on August 12, 2021. The remaining allegations in this paragraph consist of Plaintiff's characterization of its FOIA request, to which no response is required. The SEC refers to the referenced FOIA request for a complete and accurate recitation of its contents.

18. The allegations in this paragraph consist of Plaintiff's characterization of its FOIA request, to which no response is required. The SEC refers to the referenced FOIA request for a complete and accurate recitation of its contents.

19. The SEC admits that, on August 13, 2021, the SEC FOIA Office acknowledged receipt of Plaintiff's FOIA request via eight separate letters and assigned eight tracking numbers to the eight records requests contained in Plaintiff's FOIA request (FOIA Request Nos. 21-02531-FOIA, 21-02532-FOIA, 21-02533-FOIA, 21-02534-FOIA, 21-02535-FOIA, 21-02536-FOIA, 21-02537-FOIA, and 21-02538-FOIA). The remaining allegations in this paragraph and footnote 1 consist of Plaintiff's characterization of the SEC FOIA Office's August 13, 2021 letters and Plaintiff's Complaint, to which no response is required. The SEC refers to the referenced letters for a complete and accurate recitation of their contents.

20. The allegations in this paragraph consist of Plaintiff's characterization of the SEC FOIA Office's August 13, 2021 letters, to which no response is required. The SEC refers to the referenced letters for a complete and accurate recitation of their contents.

21. The SEC admits that, by letter dated August 16, 2021, the FOIA Office informed Plaintiff that, under the FOIA, Plaintiff was considered an "Other Use" requester, and that Plaintiff appealed that determination. The SEC also admits that, by letter dated September 23, 2021, the SEC granted Plaintiff's appeal. The remaining allegations in this paragraph consist of Plaintiff's characterization of the SEC's August 16, 2021 and September 23, 2021 letters, to which no response is required. The SEC refers to the referenced letters for a complete and accurate recitation of their contents.

22. The allegations in this paragraph consist of Plaintiff's characterization of the SEC's September 23, 2021 letter, to which no response is required. The SEC refers to the referenced letter for a complete and accurate recitation of its contents.

23. The allegations in this paragraph consist of Plaintiff's characterization of the SEC's September 23, 2021 letter and conclusions of law, to which no response is required. The

SEC refers to the referenced letter, and to the FOIA and SEC's FOIA regulations, for a complete and accurate recitation of their contents.

24. The SEC denies the allegations in the body of this paragraph. The allegations in the first sentence of the footnote to this paragraph consist of Plaintiff's characterization of letters the SEC sent in November 2021 regarding Request Nos. 21-02536-FOIA and 21-02538, to which no response is required. The SEC refers to the referenced letters for a complete and accurate recitation of their contents. The second sentence in footnote 2 consists of Plaintiff's characterization of this action, to which no response is required.

25. The SEC lacks knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

CLAIMS FOR RELIEF

Count I

26. The SEC repeats its responses to paragraphs 1 through 25.

27. The SEC denies the allegations in this paragraph.

28. The SEC admits the allegations in this paragraph.

29. The SEC denies the allegations in this paragraph.

30. The allegations in this paragraph consist of Plaintiff's characterization of the SEC's September 23, 2021 letter and conclusions of law, to which no response is required. The SEC refers to the referenced letter for a complete and accurate recitation of its contents.

31. The SEC denies the allegations in this paragraph.

32. The SEC lacks knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

33. The allegations in this paragraph consist of legal conclusions, to which no response is required.

34. The SEC denies the allegations in this paragraph.

Count II

35. The SEC repeats its responses to paragraphs 1 through 34.

36. The allegations in this paragraph consist of statements of law, to which no response is required. The SEC refers to the FOIA for a complete and accurate recitation of its provisions.

37. The SEC denies the allegations in this paragraph.

38. The SEC denies the allegations in this paragraph.

PRAYER FOR RELIEF

The remaining paragraphs of Plaintiff's Complaint constitute a prayer for relief, to which no response is required. To the extent a response is deemed necessary, the SEC denies that Plaintiff is entitled to the relief requested in the unnumbered paragraphs, including subparts (A) through (G), and further denies that Plaintiff is entitled to any relief whatsoever, including costs and reasonable attorneys' fees.

GENERAL DENIAL

The SEC specifically denies each and every allegation of the Complaint that is not specifically and expressly admitted herein.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

