



that because of his full financial conflict, he should not meet with anyone from Simpson Thacher.<sup>3</sup> At the time of the meeting, Mr. Lin was representing a client, Canaan Inc., in a matter before the SEC.<sup>4</sup> Mr. Lin's representation of Canaan Inc. was successful. About three months after Mr. Lin's meeting with Mr. Hinman, Canaan Inc. was listed on the NASDAQ.<sup>5</sup>

After leaving the SEC, Mr. Hinman returned to Simpson Thacher. He also became an adviser at Andreessen Horowitz,<sup>6</sup> which is a hedge fund that had arranged the meeting where parties interested in Ether had advocated to Mr. Hinman that the cryptocurrency was not a security.<sup>7</sup>

Additionally, there are potential concerns regarding former SEC Chair Jay Clayton. During his tenure as chairman, Mr. Clayton publicly stated that Bitcoin is not a security<sup>8</sup>, and affirmed Mr. Hinman's statement that Ether is not a security.<sup>9</sup> The value of both tokens rose significantly after Mr. Clayton's statements.<sup>10</sup> At the end of Mr. Clayton's tenure as chairman, the SEC filed suit against Ripple Labs, Inc. ("Ripple"), alleging that its XRP cryptocurrency was a security and the company's offering and sales of XRP had been in violation of Federal securities laws.<sup>11</sup> After leaving the SEC, Mr. Clayton reportedly joined cryptocurrency hedge fund, One River Asset Management, that focuses exclusively on Bitcoin and Ether, but not XRP.<sup>12</sup>

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<sup>3</sup> See Empower Oversight, referral to SEC Inspector General (May 9, 2022) at 8, available at <https://empowr.us/wp-content/uploads/2022/05/2022-5-9-JF-to-SECOIG-Ethics-Office-Referral.pdf>.

<sup>4</sup> Letter from SEC to Nangeng Zhang, Canaan Inc. (Aug. 19, 2019), available at <https://www.crypto-law.us/wp-content/uploads/2023/08/2023-Lin-E-mails-Full.pdf> (last visited Mar. 4, 2024).

<sup>5</sup> Jerima Kelly, *Canaan you believe this crypto stock got listed on the Nasdaq?*, FINANCIAL TIMES (Mar. 6, 2020), available at <https://www.ft.com/content/a76fba24-afbe-4b4d-84b8-629fedd961c1> (last visited Mar. 4, 2024).

<sup>6</sup> See <https://a16z.com/author/bill-hinman/> (last visited Mar. 4, 2024); see also, Frank Chaparro, 'Largest crypto fund ever:' a16z officially launches new \$2.2 billion crypto venture fund, THEBLOCK (June 24, 2021), available at <https://www.theblock.co/post/109408/a16z-third-crypto-venture-fund> (last visited Mar. 4, 2024).

<sup>7</sup> See *Former SEC Counsel Nancy Wotjas Reveals Hinman Speech Lifted from ETH Document*, CRYPTOLAW, available at <https://www.crypto-law.us/timeline/former-sec-counsel-nancy-wotjas-warning-against-sec/> (last visited Mar. 4, 2024).

<sup>8</sup> CNBC, *SEC Chairman: Cryptocurrencies Like Bitcoin Are Not Securities* (June 6, 2018), available at <https://www.cnbc.com/video/2018/06/06/sec-chairman-cryptocurrencies-like-bitcoin--not-securities.html> (last visited Mar. 4, 2024, video unavailable).

<sup>9</sup> Nikhilesh De, *SEC Chair Clayton Affirms Agency's Stance Ether Is No Longer a Security*, COIN DESK (Mar. 12, 2019), available at <https://www.coindesk.com/markets/2019/03/12/sec-chair-clayton-affirms-agencys-stance-ether-is-no-longer-a-security/> (last visited Mar. 4, 2024).

<sup>10</sup> Olga Kharif, Eric Lam, *Cryptocurrency Rally Builds Steam as Bitcoin Surpasses \$7,500*, BLOOMBERG (July 17, 2018), available at <https://www.bloomberg.com/news/articles/2018-07-17/bitcoin-surges-after-breaking-back-through-7-000-level> (last visited Mar. 4, 2024); Joseph Young, *Bitcoin and Ethereum Show New Momentum After 20% Gain, Is a New Rally in the Works?*, COINTELEGRAPH (Apr. 9, 2019), available at <https://cointelegraph.com/news/bitcoin-and-ethereum-show-new-momentum-after-20-gain-is-a-new-rally-in-the-works> (last visited Mar. 4, 2024).

<sup>11</sup> SEC, Press Release, *SEC Charges Ripple and Two Executives with Conducting \$1.3 Billion Unregistered Securities Offering* (Dec. 22, 2020), available at <https://www.sec.gov/news/press-release/2020-338> (last visited Mar. 4, 2024).

<sup>12</sup> Emily Graffeo, *Former SEC Chair Jay Clayton Will Advise Digital Asset Hedge Fund One River on Crypto* (Mar. 29, 2021), available at <https://markets.businessinsider.com/currencies/news/bitcoin-hedge-fund-sec-chair-jay-clayton-one-river-crypto-2021-3-1030256150> (last visited Mar. 4, 2024); PR Newswire, *One River Digital launches institutional Ethereum staking strategy, adding bond-like yields to ether investments* (Nov. 11, 2021), available at <https://www.prnewswire.com/news-releases/one-river-digital-launches-institutional-ethereum-staking-strategy-adding-bond-like-yields-to-ether-investments-301422587.html> (last visited Mar. 4, 2024).

In 2022, Mr. Clayton was named as an adviser for Electric Capital,<sup>13</sup> a crypto-focused venture capital firm that was established in 2018, while Mr. Clayton was serving as SEC Chair.<sup>14</sup> Notably, Electric Capital has invested in Consensys,<sup>15</sup> which is a developer of Ether.<sup>16</sup>

To promote the public interest in understanding whether Mr. Hinman's and Mr. Clayton's relationships with private sector firms, companies, and individuals improperly influenced any of their official actions during their time at the SEC, and to what extent the SEC and its ethics officials mitigated, investigated, and resolved such conflicts, Empower Oversight respectfully requests the records listed below.

## RECORDS REQUEST

Empower Oversight requests the following records pursuant to FOIA, 5 U.S.C. § 552:

1. All records of communications from May of 2017 through December of 2020 between William Hinman and any individual from Andreessen Horowitz, including calendar entries, invites, responses, notes, and emails, or email attachments between William Hinman and Scott Kupor, Ryan Ward, and any email address from the domain, "@a16z.com";
2. All records of William Hinman's communications from May of 2017 through December of 2020 with the key words "Canaan" or "Andreesen."
3. All records of communications from May of 2017 through December of 2020 between Jay Clayton and any individual from Electric Capital, including calendar entries, invites, responses, notes, and emails, or email attachments between Jay Clayton and any email address from the domain "@electriccapital.com"; and
4. All records of Jay Clayton's communications from May 2017 through December 2020 with the key words "Electric Capital," "Ether," "Ethereum," "Consensys," "ConsenSys," or "One River."

## DEFINITIONS

"COMMUNICATION(S)" means every manner or method of disclosure, exchange of information, statement, or discussion between or among two or more persons, including but not limited to, face-to-face and telephone conversations, correspondence, memoranda, telegrams, telexes, email messages, voice-mail messages, text messages, Slack messages, meeting minutes, discussions, releases, statements, reports, publications, and any recordings or reproductions thereof.

"DOCUMENT(S)" or "RECORD(S)" mean any kind of written, graphic, or recorded matter, however produced or reproduced, of any kind or description, whether sent, received, or neither, including drafts, originals, non-identical copies, and information stored magnetically,

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<sup>13</sup> Hannah Miller, *Crypto VC Electric Capital Names Ex-SEC Chair Clayton as Adviser*, BLOOMBERG LAW (Aug. 24, 2022), available at <https://news.bloomberglaw.com/crypto/crypto-vc-electric-capital-names-ex-sec-chair-clayton-as-adviser> (last visited Mar. 4, 2024); see also, Electric Capital Team, available at <https://www.electriccapital.com/team/jay-clayton> (last visited Mar. 4, 2024).

<sup>14</sup> Avichal Garg, *Electric Capital Partners Frontier Fund GP, LLC*, U.S. SECURITIES & EXCHANGE COMM'N, *FORM D Notice of Exempt Offering of Securities*, OMB Number: 3235-0076 (Mar. 29, 2018), available at [https://www.sec.gov/Archives/edgar/data/1736017/000173601718000002/xslFormDX01/primary\\_doc.xml](https://www.sec.gov/Archives/edgar/data/1736017/000173601718000002/xslFormDX01/primary_doc.xml).

<sup>15</sup> See Electric Capital Investments, available at <https://www.electriccapital.com/investments> (last visited Mar. 4, 2024).

<sup>16</sup> Ashley Rindsberg, *Consensus Faces Shareholder Vote Over Controversial Transfer of Company Assets*, COINDESK (June 8, 2023), available at <https://www.coindesk.com/consensus-magazine/2023/06/08/consensus-faces-shareholder-vote-over-controversial-transfer-of-company-assets/> (last visited Mar. 4, 2024).

electronically, photographically, or otherwise. As used herein, the terms “DOCUMENT(S)” or “RECORD(S)” include, but are not limited to, studies, papers, books, accounts, letters, diagrams, pictures, drawings, photographs, correspondence, telegrams, cables, text messages, emails, memoranda, notes, notations, work papers, intra-office and inter-office communications, communications to, between and among employees, contracts, financial agreements, grants, proposals, transcripts, minutes, orders, reports, recordings, or other documentation of telephone or other conversations, interviews, affidavits, slides, statement summaries, opinions, indices, analyses, publications, questionnaires, answers to questionnaires, statistical records, ledgers, journals, lists, logs, tabulations, charts, graphs, maps, surveys, sound recordings, data sheets, computer printouts, tapes, discs, microfilm, and all other records kept, regardless of the title, author, or origin.

“PERSON” means individuals, entities, firms, organizations, groups, committees, regulatory agencies, governmental entities, business entities, corporations, partnerships, trusts, and estates.

“REFERS,” “REFERRING TO,” “REGARDS,” REGARDING,” “RELATES,” “RELATING TO,” “CONCERNS,” “BEARS UPON,” or “PERTAINS TO” mean containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing, or characterizing, either directly or indirectly, in whole or in part.

“INCLUDING” means comprising part of, but not being limited to, the whole.

### **INSTRUCTIONS**

The words “and” and “or” shall be construed in the conjunctive or disjunctive, whichever is most inclusive.

The singular form shall include the plural form and vice versa.

The present tense shall include the past tense and vice versa.

In producing the records described above, you shall segregate them by reference to each of the numbered items of this FOIA request.

If you have any questions about this request, please contact [REDACTED] by e-mail at [REDACTED].

### **FEE WAIVER REQUEST**

Empower Oversight agrees to pay up to \$25.00 in applicable fees, but notes that it qualifies as a “representative of the news media” and requests a waiver of any fees that may be associated with processing this request, in keeping with 5 U.S.C. § 552 (a)(4)(A)(iii).

Empower Oversight is a non-profit educational organization as defined under Section 501(c)(3) of the Internal Revenue Code, which helps insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seeks to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same.

Further, the information that Empower Oversight seeks is in the public interest because it is likely to contribute significantly to the public’s understanding of the Department’s handling of allegations that it or its employees was negligent or engaged in wrongdoing.

Empower Oversight is committed to government accountability, public integrity, and transparency. In the latter regard, the information that that Empower Oversight receives that tends to explain the subject matter of this FOIA request will be disclosed publicly via its website, and copies will be shared with other news media for public dissemination.

For ease of administration and to conserve resources, we ask that documents be produced in a readily accessible electronic format. Thank you for your time and consideration. Please do not hesitate to contact me with any questions.

Cordially,  
/Tristan Leavitt/  
Tristan Leavitt  
President