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July 24, 2019

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F St. NE
Washington, DC 20549

Dear Chairman Clayton:

I write to bring to your attention what appears to be a series of misleading public statements and omissions of material facts by top executives of The GEO Group, Inc. (GEO), one of the nation's largest for-profit prison operators, concerning several lawsuits against the company.

These GEO executives may have either misrepresented conditions to the Court and to federal government officials, or may have violated federal securities laws. Specifically, they may have violated Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and SEC Rule 10b-5.¹ These securities laws prohibit companies from misleading investors about facts that could affect their business and their stock price. SEC rules, enacted under the Securities Exchange Act of 1934, prohibit "any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact."²

GEO Executives Private Statements of Concern to Government Officials

Since 2014, GEO has faced a series of lawsuits for mistreatment of detainees in connection with their facilities' "voluntary" work programs. A class action lawsuit beginning in Colorado is suing the company for forcing detainees to work for a \$1 daily wage, including through threats of solitary confinement.³ A lawsuit in California includes claims of "forced labor" and "unjust

¹ 15 USC § 77(q), <https://www.law.cornell.edu/uscode/text/15/77q>; 15 USC § 78(j), <https://www.law.cornell.edu/uscode/text/15/78j>; 17 CFR § 240.10(b)(5), <https://www.law.cornell.edu/cfr/text/17/240.10b-5>.

² 17 CFR § 240.14(a)(9), <https://www.law.cornell.edu/cfr/text/17/240.14a-9>.

³ Washington Post, "Thousands of ICE detainees claim they were forced into labor, a violation of anti-slavery laws," Kristine Phillips, March 5, 2017, <https://www.washingtonpost.com/news/post-nation/wp/2017/03/05/thousands-of-ice-detainees-claim-they-were-forced-into-labor-a-violation-of-anti-slavery-laws/>.

enrichment.”⁴ And the Washington State Attorney General sued GEO for paying detainees \$1 per day.⁵

In court filings and in recently-revealed communications with government officials, GEO officials revealed that they viewed these lawsuits as significant threats to the companies’ earnings and to its very viability. For example, on March 13, 2017, in a court filing before the Tenth Circuit Court of Appeals, GEO told the court that if a class-action case proceeded, it would pose “a potentially catastrophic risk to GEO’s ability to honor its contracts with the federal government.”⁶

On February 14, 2018, as the class action suit moved forward, GEO’s Senior Vice President of Business Development, David Venturella, wrote a private letter to ICE. In it, Mr. Venturella stated that “[t]here is an urgent need for the federal government to participate” in the litigation, noting that “the legal discovery costs could total several millions of dollars and potential damages could be in the tens of millions.”⁷ Mr. Venturella added that “GEO cannot bear the costs of this defense on its own,” and that “GEO would need to be reimbursed for all of the cost[s.]”⁸ He warned that the already-significant costs associated with the Colorado case “will increase sharply,” and that the expenses of the Washington State litigation could “increase exponentially.”⁹

Three months later, in May 2018, GEO’s CEO, George Zoley, sent another letter to ICE, this time increasing the estimate of legal fees from \$15 million to \$20 million, “urgently implore[ing] DOJ to take over the defense of these lawsuits and reimbursing GEO for its costs,” and adding that GEO was “deeply alarmed at the rapidly increasing costs[.]”¹⁰ On July 9, 2018, ICE sent Zoley a letter rejecting his requests.¹¹

A loss in these suits, or even just the cost of defending against them, would clearly be a serious concern for shareholders and have a “material adverse effect on the company’s financial

⁴ United States District Court Central District of California Eastern Division, *Nova v. The GEO Group, Inc.*, December 19, 2017, <http://www.burnscharest.com/wp-content/uploads/2017/12/2017-12-19-Novoa-Dkt-1-Complaint2.pdf>.

⁵ CNN Business, “Lawsuit: ICE detention center paid imprisoned workers less than \$1 per day,” Jackie Wattles, September 20, 2017, <https://money.cnn.com/2017/09/20/news/companies/washington-immigration-detainees-wage-attorney-general/index.html>.

⁶ United States Court of Appeals for the Tenth Circuit, *Menocal, Brambila, Xahuentitla, Hernandez, Argueta, Gaytan, Alexaklina, Vizguerra, and Valgera v. The GEO Group, Inc.*, March 13, 2017, <https://deportationresearchclinic.org/App-1-GEOPetition-2017-3-13.pdf>.

⁷ Letter from the GEO Group, Inc. to U.S. Immigration and Customs and Enforcement, “Request for Equitable Adjustment in the Amount of \$2,057,000 and Legal Assistance from ICE/DOJ,” February 14, 2018, https://deportationresearchclinic.org/GEO_2-14-2018_ICLI00052.pdf.

⁸ *Id.*

⁹ *Id.*

¹⁰ Letter from the GEO Group, Inc. to U.S. Immigration and Customs and Enforcement, May 30, 2018, https://deportationresearchclinic.org/GEO_5-3-2018-ICLI00052.pdf.

¹¹ The Daily Beast, “Private Prison Bosses Beg Taxpayers to Pay Human-Trafficking Lawsuit Bills,” Betsy Woodruff, July 17, 2019, <https://www.thedailybeast.com/private-prison-bosses-beg-taxpayers-to-pay-human-trafficking-lawsuit-bills?ref=home>.

condition, results of operations or cash flows.”¹² GEO reported a quarterly net income of \$33.4 million in the fourth quarter of 2018.¹³ But GEO privately estimated to government officials that it would incur legal fees of \$15 to \$20 million and potential damages in the tens of millions of dollars. These legal fees alone costs added up almost half of an entire quarter of net income or more. This would certainly qualify as a “material adverse effect” on the company’s financial condition.

GEO’s Public Statements do not Reflect Privately Stated Concerns

Despite significant ongoing legal concerns, GEO has made a series of public statements through earnings calls and filings with the Securities and Exchange Commission (SEC) that differ dramatically from the non-public communications by corporate executives.

For example, on February 27, 2017, two weeks before its filing with the Tenth Circuit Court of Appeals calling the lawsuit “potentially catastrophic,” GEO filed its Annual 10-K statement with the SEC, claiming that the company “does not expect the outcome of any pending claims or legal proceedings to have a material adverse effect on its financial condition, results of operations or cash flows.”¹⁴ In the company’s next earnings call, on May 1, 2017, not a single member of GEO’s leadership team mentioned the lawsuit or the “potentially catastrophic risk” cited in court filings.¹⁵ The same is true for the company’s earnings calls on August 7, 2017¹⁶ and October 31, 2017.¹⁷

On February 9, 2018, the court approved the class action lawsuit.¹⁸ On February 14, 2018, the same day that GEO’s Senior Vice President privately warned ICE officials that GEO “cannot bear the costs of this defense” against the lawsuits, GEO held an earnings call, yet did not

¹² The Geo Group, Inc., SEC Form 10-Q for the quarterly period ended March 31, 2018, filed on April 30, 2018, <https://www.sec.gov/Archives/edgar/data/923796/000119312518143622/d560014d10q.htm>.

¹³ The GEO Group, “The GEO Group Reports Fourth Quarter and Full-Year 2018 Results,” press release, <https://www.sec.gov/Archives/edgar/data/923796/000119312519046998/d686247dex991.htm>.

¹⁴ The Geo Group, Inc., SEC Form 10-K for the year ended December 31, 2016, filed on February 27, 2017, <https://www.sec.gov/Archives/edgar/data/923796/000119312517056831/d320699d10k.htm>.

¹⁵ The GEO Group, Inc., “Geo Group's (GEO) CEO George Zoley on Q1 2017 Results - Earnings Call Transcript,” May 2, 2017, <https://seekingalpha.com/article/4068064-geo-groups-geo-ceo-george-zoley-q1-2017-results-earnings-call-transcript>.

¹⁶ The GEO Group Inc., “Geo Group's (GEO) CEO George Zoley on Q1 2017 Results - Earnings Call Transcript,” May 2, 2017, <https://seekingalpha.com/article/4096038-geo-groups-geo-ceo-george-zoley-q2-2017-results-earnings-call-transcript>.

¹⁷ The GEO Group Inc., “The GEO Group's (GEO) CEO George Zoley on Q3 2017 Results - Earnings Call Transcript,” October 31, 2017, <https://seekingalpha.com/article/4118739-geo-groups-geo-ceo-george-zoley-q3-2017-results-earnings-call-transcript>.

¹⁸ United States Court of Appeals for the Tenth Court, Menocal, Brambila, Xahuentitla, Hernandez, Argueta, Gaytan, Alexaklina, Vizguerra and Valegra v. The GEO Group, Inc., February 02, 2018, <https://deportationresearchclinic.org/GEOAppealTerminated-02-09-2018.pdf>.

mention these lawsuits or their risk at all.¹⁹ Less than two weeks later, in its 2017 Annual 10-K Statement filed with the SEC, GEO once again reiterated that it “does not expect the outcome of any pending claims or legal proceedings to have a material adverse effect on its financial condition, results of operations or cash flows.”²⁰ In regard to this specific litigation matter, GEO added that “a loss is not considered probable nor reasonably estimable at this stage[,]” despite its clearly contradictory communication to ICE.²¹

A year later, as the case moved forward, and after GEO’s CEO had privately warned ICE of GEO’s “dee[p] alarm at the [lawsuits’] rapidly increasing costs,” GEO’s Annual 10-K Statement, filed with the SEC on February 25, 2019, again stated that the company “does not expect the outcome of any pending claims or legal proceedings to have a material adverse effect on its financial condition, results of operations or cash flows.”²²

Request for SEC Investigation

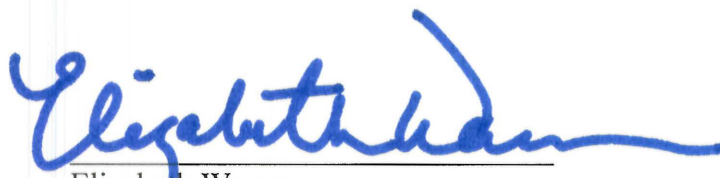
It is difficult to reconcile the dire, private communications of GEO’s top executives about the lawsuits and the failure to disclose any clear financial threat facing the company in SEC filings and on earnings calls, and I believe the circumstances justify a prompt and thorough SEC investigation of this matter.

I am therefore writing to request that the SEC:

1. Open an investigation into whether GEO may have violated the securities laws by making false or misleading statements or omissions of fact about the impact of the series of lawsuits against the company.
2. Provide my staff with a briefing on this matter at the earliest convenience.

Please respond by August 7, 2019.

Sincerely,



Elizabeth Warren
United States Senator

¹⁹ The GEO Group, Inc., “The GEO Group’s (GEO) CEO George Zoley on Q4 2018 Results - Earnings Call Transcript,” February 14, 2019, <https://seekingalpha.com/article/4241218-geo-groups-geo-ceo-george-zoley-q4-2018-results-earnings-call-transcript>.

²⁰ The GEO Group, SEC Form 10-K for the year ended December 31, 2017, filed on February 26, 2018, <http://investors.geogroup.com/Cache/392433261.PDF?O=PDF&T=&Y=&D=&FID=392433261&iid=4144107>.

²¹ *Id.*

²² The GEO Group, Inc., SEC Form 10-K for the fiscal year ended December 31, 2018, filed on February 25, 2019, <https://www.sec.gov/Archives/edgar/data/923796/000119312519050054/d663410d10k.htm>.