

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Illumina, Inc., a corporation,

and

GRAIL, Inc., a corporation,

Respondents.

Docket No. 9401

NON-PARTY GOLDMAN SACHS'S MOTION FOR *IN CAMERA* TREATMENT

Pursuant to Rule 3.45(b) of the Federal Trade Commission's Rules of Practice, non-party Goldman Sachs & Co. LLC moves for *in camera* treatment of five exhibits that Complaint Counsel intends to offer at trial. Public disclosure of these documents would likely result in serious competitive injury to Goldman Sachs. Accordingly, Goldman Sachs seeks an order granting *in camera* treatment of these exhibits for ten years. Neither Complaint Counsel nor the Respondents oppose this motion.

BACKGROUND

Goldman Sachs, a global investment banking, securities, and investment management firm, has previously worked with both respondents to this proceeding. *See* Declaration of Andrew Herzog ("Herzog Decl.," attached as Exhibit A) ¶¶ 2, 10. These prior engagements include serving as financial advisor to Illumina, Inc., in connection with its potential acquisition of GRAIL, Inc. *Id.* ¶ 3.

Pursuant to a Commission subpoena *duces tecum* issued January 11, 2021, Goldman Sachs produced internal documents related to Illumina and GRAIL. Declaration of Meghan Rissmiller ("Rissmiller Decl.," attached as Exhibit B) ¶¶ 2–3. In complying with the subpoena, Goldman

Sachs requested that these documents be accorded the full extent of confidentiality available under statute and the Commission’s Rules. *Id.* ¶ 4. Goldman Sachs also stamped individual documents as confidential before producing them to the Commission. *Id.* ¶ 5. Commission Staff later informed Goldman Sachs that its documents would be subject to protective orders entered in federal district court and this administrative trial. *Id.* ¶ 6.

On July 26, 2021, Complaint Counsel and Illumina informed Goldman Sachs that the parties intended to offer eleven documents produced by Goldman Sachs as exhibits during the administrative trial. *Id.* ¶ 7. Goldman Sachs now seeks *in camera* treatment for five of these exhibits (the “Confidential Exhibits”), each for a period of ten years.¹ These exhibits are listed in the following table.

Exhibit No.	Date	Beginning Bates No.	Ending Bates No.
PX8409	8/19/20	GS-FTC-000000001	GS-FTC-000000013
PX8410	9/6/20	GS-FTC-000000014	GS-FTC-000000039
PX8411	9/14/20	GS-FTC-000000040	GS-FTC-000000053
PX8412	9/20/20	GS-FTC-000000054	GS-FTC-000000067
PX9166	Undated ²	PX9166-001	PX9166-003

LEGAL STANDARD

In camera treatment is warranted when public disclosure of an exhibit would “likely result in a clearly defined, serious injury.” 16 C.F.R. § 3.45(b). To make this showing, corporations must demonstrate that exhibits contain information both “sufficiently secret and sufficiently material to their business that disclosure would result in serious competitive injury.” *In re Gen. Foods Corp.*, 95 F.T.C. 352, 355 (1980). An employee’s declaration is necessary to explain the documents’

¹ Goldman Sachs understands that Respondents intend to move for *in camera* treatment of other documents obtained from Goldman Sachs pursuant to the Commission’s subpoena. Goldman Sachs does not oppose these motions.

² This document is a spreadsheet detailing Goldman Sachs’s engagements with Illumina and GRAIL. Rissmiller Decl. ¶ 3. Although undated, the document was created in response to the January 2021 subpoena and contains information on engagements as recent as October 2020. *Id.*

confidentiality and materiality. See *In re N. Texas Specialty Physicians*, No. 9312, 2004 WL 1571167, at *1–2 (FTC Apr. 23, 2004).

In assessing whether documents are sufficiently secret and material to warrant *in camera* treatment, the Commission has identified six relevant factors:

- (1) the extent to which the information is known outside of [the] business;
- (2) the extent to which it is known by employees and others involved in [the] business;
- (3) the extent of measures taken by [the business] to guard the secrecy of the information;
- (4) the value of the information to [the business] and to [its] competitors;
- (5) the amount of effort or money expended by [the business] in developing the information; [and]
- (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

In re Bristol-Myers Co., 90 F.T.C. 455, 456–57 (1977). Non-parties to the underlying proceeding are entitled to “special solicitude” in this analysis. *In re Kaiser Aluminum & Chem. Corp.*, 103 F.T.C. 500, 500 (1984). As the Commission has recognized, “extensions of confidential or *in camera* treatment in appropriate cases involving third party bystanders encourages cooperation with future adjudicative discovery requests.” *Id.*

In camera status is generally granted for a limited period. See 16 C.F.R. § 3.45(b)(3). However, extended *in camera* treatment is particularly appropriate when the exhibits at issue contain trade secrets, as opposed to ordinary business records. See *In re Otto Bock HealthCare N. Am., Inc.*, No. 9378, 2018 WL 3491602, at *2–3 (FTC July 2, 2018).

ARGUMENT

Goldman Sachs seeks *in camera* treatment for two categories of documents, addressed in turn below. The first category is a set of four “GS Presentations” (PX8409, PX8410, PX8411, and PX8412) that Goldman Sachs prepared in advising its client, Illumina. See Herzog Decl. ¶ 7. The second category is information in a spreadsheet (PX9166) listing Goldman Sachs’s engagements

with Illumina and GRAIL since 2017. *Id.* ¶ 10. For both categories, Goldman Sachs seeks an order granting *in camera* treatment for ten years.

1. GS Presentations (PX8409, PX8410, PX8411, and PX8412)

Goldman Sachs created the four GS Presentations while advising Illumina on its potential acquisition of GRAIL. *See id.* ¶ 7. The GS Presentations analyze the transaction and the broader market, relying on Goldman Sachs's experience with financial analysis and the firm's proprietary frameworks for approaching mergers and acquisitions. *See id.* ¶¶ 7–9. These frameworks, in turn, draw on internal Goldman Sachs data, confidential information obtained from Illumina and GRAIL, and applications of Goldman Sachs's discretion. *See id.* Disclosing the GS Presentations would cause a serious competitive injury because they are both secret and material to Goldman Sachs's business. *See Gen. Foods*, 95 F.T.C. at 355.

First, the GS Presentations are secret. In assessing secrecy, the Commission has explained that courts are to consider how parties have safeguarded their information, both internally and externally, as well as the success of those measures. *See Bristol-Myers*, 90 F.T.C. at 456–57. Here, Goldman Sachs has taken extensive steps inside and outside its business to keep the GS Presentations confidential. Internally, access to these documents is restricted to members of the team advising Illumina. Herzog Decl. ¶ 6. Externally, Goldman Sachs and its clients, including Illumina, are subject to agreements that strictly bar disclosure of confidential information, including the GS Presentations and the information they contain. *See id.* The GS Presentations themselves include language underscoring their confidentiality. *Id.* ¶ 7.

After receiving the Commission's subpoena, Goldman Sachs continued to guard the GS Presentations as confidential. Goldman Sachs produced these documents pursuant to legal process, and, in doing so, counsel requested the full extent of confidentiality available under statute and the Commission's Rules. *See Rissmiller Decl.* ¶¶ 3–4. Goldman Sachs's counsel also stamped each of

the GS Presentations as confidential before producing them to the Commission. *See id.* ¶ 5. And since the beginning of the Commission’s challenge to this transaction, the GS Presentations have been guarded under protective orders entered in federal district court and this administrative proceeding. *Id.* ¶ 6. In other words, Goldman Sachs has monitored and ensured the confidentiality of these materials at all times.

Second, the GS Presentations are material. In *Bristol-Myers*, the Commission set forth three factors that bear directly on materiality: “the value of the information to [the business] and to [its] competitors,” “the amount of effort or money expended by [the business] in developing the information,” and “the ease or difficulty with which the information could be properly acquired or duplicated by others.” *See* 90 F.T.C. at 457. The Commission adopted these factors from a description of trade secrets. *See id.*; *see also* Restatement (First) of Torts § 757 cmt. b (Am. Law Inst. 1939). These factors all point to finding that the GS Presentations are material. Goldman Sachs’s expertise with mergers and acquisitions is the bedrock of its service to clients. Herzog Decl. ¶ 9. The GS Presentations rely on Goldman Sachs’s proprietary frameworks for evaluating and valuing companies, markets, and transactions, yielding the firm’s insights into investor behavior. *See id.* ¶ 8. Even where frameworks such as these rely on public information, they naturally require discretion in their application.

Goldman Sachs has invested significant resources in developing these valuation methodologies and the expertise necessary to apply them. *See id.* ¶¶ 8–9. In particular, these frameworks draw on Goldman Sachs’s deep experience in advising clients on mergers and acquisitions. *See id.* Because such experience is not readily acquired, disclosing the GS Presentations would enable other firms to derive Goldman Sachs’s methods and strategies for approaching similar transactions, without having to invest significant resources of their own. In

this way, disclosing these exhibits would impose significant harm to Goldman Sachs, while gifting a windfall to its competitors.

As this Court has recognized in other proceedings, granting ten years of *in camera* treatment is warranted where similar trade secrets are at issue. *See Otto Bock*, 2018 WL 3491602, at *2. The GS Presentations' proprietary frameworks related to assessing potential transactions are independent of the data they rely on, such that public disclosure within the next ten years would continue to inflict competitive injury on Goldman Sachs. To prevent this harm from occurring, Goldman Sachs seeks an order granting *in camera* treatment of the GS Presentations for a period of ten years.

2. Engagements Spreadsheet (PX9166)

Goldman Sachs also seeks *in camera* treatment for nonpublic information contained in a spreadsheet listing engagements for Illumina and GRAIL since 2017 (PX9166), as highlighted in gray on the version filed *in camera* with this motion. *See Herzog Decl.* ¶ 10. The nonpublic information in this spreadsheet is secret and material to Goldman Sachs and its clients, such that disclosure would inflict a serious competitive injury on the firm.

Goldman Sachs treats the nonpublic information in this spreadsheet as secret. Goldman Sachs gathered the information into this spreadsheet only after receiving the Commission's subpoena. *See Rissmiller Decl.* ¶ 3. Even within the firm, access to the underlying database is restricted to certain members within the Investment Banking division. *Herzog Decl.* ¶ 10. Goldman Sachs has similarly treated this exhibit as confidential at all times since receiving the subpoena. In responding to the subpoena, counsel for Goldman Sachs requested the full extent of confidentiality protections available under statute and the Commission's Rules, stamped the spreadsheet as confidential before producing it to the Commission, and monitored the protective orders entered

in federal court and in this proceeding to ensure that this exhibit would remain confidential. *See* Rissmiller Decl. ¶¶ 4–6.

The nonpublic information in this spreadsheet is also material. Goldman Sachs’s nonpublic engagements expose information that Goldman Sachs agreed to maintain as confidential for its clients. Herzog Decl. ¶ 11. The trajectory of the firm’s relationships with companies like Illumina and GRAIL also reveals Goldman Sachs’s proprietary approach to client services. *See id.* Disclosing the patterns of Goldman Sachs’s engagements with Illumina and GRAIL threatens a competitive injury to Goldman Sachs in two ways. First, revealing specific nonpublic information about Goldman Sachs’s relationships with Illumina and GRAIL would accord other investment banks an advantage in competing for future engagements with these clients. Second, revealing the patterns of how Goldman Sachs develops relationships with clients would give rival firms a competitive advantage more generally.

Goldman Sachs requests that this Court grant ten years of *in camera* treatment for the nonpublic information in this spreadsheet. The competitive value of this information—including its patterns and trajectories over time—will remain significant, even after information on specific engagements becomes outdated. *See id.* ¶ 12. Ten years of *in camera* treatment is warranted to prevent the ongoing threat of competitive injury to Goldman Sachs.

CONCLUSION

The Commission has recognized that requests for *in camera* treatment are entitled to “special solicitude” when they come from non-parties like Goldman Sachs. *Kaiser Aluminum*, 103 F.T.C. at 500. The Confidential Exhibits are both secret and material to Goldman Sachs. For the reasons explained in this motion and the attached declarations, Goldman Sachs respectfully

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requests that this Court grant *in camera* treatment for a period of ten years for exhibits PX8409, PX8410, PX8411, PX8412, and the information designated within PX9166.

Dated: August 5, 2021

Respectfully submitted,

By: s/ Meghan Rissmiller

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EXHIBIT A

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Illumina, Inc., a corporation,

and

GRAIL, Inc., a corporation,

Respondents.

Docket No. 9401

DECLARATION OF ANDREW HERZOG

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am an associate in the Investment Banking division at Goldman Sachs & Co. LLC (“Goldman Sachs”), a position I have held since July 2020. In that capacity, I am responsible for performing financial analyses and advising on strategic and financing situations for clients in the healthcare sector.
2. Goldman Sachs is a global investment banking, securities, and investment management firm that provides a wide range of financial services to corporations, financial institutions, governments, and individuals.
3. Goldman Sachs serves as financial advisor to Illumina, Inc. (“Illumina”), in connection with its proposed acquisition of GRAIL, Inc. (“GRAIL”).
4. Since August 2020, I have worked on the Goldman Sachs team that is advising Illumina with respect to its proposed acquisition of GRAIL.
5. I have reviewed the eleven documents from Goldman Sachs that Counsel for the Commission and Illumina intend to offer as exhibits at trial. Of these eleven exhibits, the public disclosure of five documents would reveal client-sensitive information and

information and analyses that are subject to non-disclosure obligations. These five exhibits are PX8409, PX8410, PX8411, PX8412, and PX9166 (the “Confidential Exhibits”).

6. At all times, Goldman Sachs has taken precautions to maintain the confidentiality of the Confidential Exhibits. Access to the Confidential Exhibits is restricted even within Goldman Sachs, such that only the members of the matter team can review them. Furthermore, pursuant to an engagement letter, Goldman Sachs and Illumina agreed that “any written or oral advice provided by Goldman Sachs in connection with [the] engagement is exclusively for the information of the Board of Directors and senior management of [Illumina] in connection with their consideration of the Transaction, and such advice . . . may not be disclosed to any third party.”
7. Four of the Confidential Exhibits (PX8409, PX8410, PX8411, and PX8412) are presentations that the Goldman Sachs team prepared in advising Illumina on its proposed acquisition of GRAIL (the “GS Presentations”). The GS Presentations contain Goldman Sachs’s analysis and internal data as well as nonpublic information that Illumina and GRAIL provided to Goldman Sachs and which Goldman Sachs agreed to maintain as confidential. Indeed, the GS Presentations include language emphasizing their confidentiality.
8. The GS Presentations outline Goldman Sachs’s internal methodologies for evaluating and valuing companies, markets, and transactions.
9. Goldman Sachs’s methods for evaluating companies, markets, and transactions provide the foundation for its advice to clients. The firm’s expertise in approaching mergers and acquisitions is the product of significant investment by the firm.

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10. The fifth Confidential Exhibit, PX9166, contains information on Goldman Sachs's engagements with GRAIL (on page PX9166-002) and Illumina (on page PX9166-003) since 2017. Many of the listed engagements are not publicly known, and the confidential information in this exhibit is highlighted in gray on the version of the exhibit filed with this declaration. Information in this spreadsheet comes from a Goldman Sachs database, for which access is restricted to certain employees within Goldman Sachs's Investment Banking division.
11. Nonpublic information on these engagements reveals confidential and material details on Goldman Sachs's specific role on transactions that are often subject to their own confidentiality agreements, as well as the firm's approach to client service. As this information is also confidential to the companies identified in the spreadsheet, disclosing the information could be harmful to those companies or to Goldman Sachs's relationships with them.
12. Even after the information on any individual matter in the spreadsheet has become outdated, disclosure of Goldman Sachs's work on nonpublic matters and approach to client relationships would reveal the firm's confidential information.
13. I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

8/5/2021

Andrew Herzog
Investment Banking Associate
Goldman Sachs & Co. LLC

EXHIBIT B

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**Illumina, Inc., a corporation,
and
GRAIL, Inc., a corporation,
Respondents.**

Docket No. 9401

DECLARATION OF MEGHAN RISSMILLER

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am a Partner at Freshfields Bruckhaus Deringer LLP and represent Goldman Sachs & Co. LLC (“Goldman Sachs”) with respect to this proceeding.
2. In January 2021, Goldman Sachs received a subpoena issued January 11, 2021, to produce documents to the Federal Trade Commission (the “Commission”) as part of the Commission’s investigation into the proposed acquisition of GRAIL, Inc. (“GRAIL”) by Illumina, Inc. (“Illumina”). I represented Goldman Sachs in responding to this subpoena.
3. Pursuant to the subpoena, Goldman Sachs produced the following three sets of documents concerning Illumina and GRAIL to the Commission:

Date of Production	Beginning Bates No.	Ending Bates No.
02/09/2021	GS-FTC-000000001	GS-FTC-000000269
02/26/2021	GS-FTC-000000270	GS-FTC-000029527
03/03/2021	GS-FTC-000029528	GS-FTC-000036713

In addition to these productions, Goldman Sachs separately produced two other documents on February 9, 2021. First, Goldman Sachs produced a spreadsheet (exhibit PX9166) containing Goldman Sachs’s engagements with GRAIL (on page PX9166-002) and

Illumina (on page PX9166-003) since 2017. This spreadsheet was created in response to the Commission's subpoena and contains information on engagements as recent as October 2020. Second, Goldman Sachs produced to the Commission a publicly-available investor presentation (exhibit PX9171).

4. When Goldman Sachs complied with the Commission's subpoena by producing these documents, counsel for Goldman Sachs also sought to maintain the confidentiality of the firm's records. Each of the cover letters and email messages enclosing the produced documents specifically requested confidential treatment by including the following language:

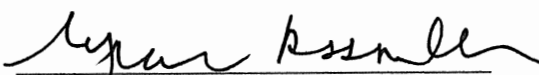
I hereby request that all information provided will be accorded confidential treatment pursuant to all governing statutes and the Commission's Rules. Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f), provides that information obtained by the Commission pursuant to subpoena, or voluntarily in lieu of subpoena, in any investigation to determine whether there may be a violation of any law administered by the Commission, is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. § 552. See also 16 C.F.R. §§ 4.10-4.11. Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), specifically restricts the Commission's authority to make public trade secrets and commercial or financial information which is obtained from any person and which is confidential. See also 16 C.F.R. § 4.10(a)(2).

5. Except for the single publicly-available investor presentation that it produced, counsel for Goldman Sachs stamped each of these documents as confidential before producing them to the Commission.
6. In March 2021, Commission Staff notified Goldman Sachs's counsel that it would challenge the proposed transaction between Illumina and GRAIL. Commission Staff further notified Goldman Sachs's counsel of the protective orders issued in federal district

court and the administrative trial, both of which applied to the confidential information that Goldman Sachs produced.

7. On July 26, 2021, counsel for Goldman Sachs received notice that Complaint Counsel and Illumina intend to offer eleven documents obtained from Goldman Sachs as exhibits at trial. The notice received from Complaint Counsel is enclosed as Attachment 1. Goldman Sachs's motion for *in camera* treatment concerns only exhibits to be offered by Complaint Counsel.
8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 5 August 2021


Meghan Rissmiller

ATTACHMENT 1

PUBLIC

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

WASHINGTON, D.C. 20580

Bureau of Competition
Mergers I Division

July 26, 2021

VIA EMAIL TRANSMISSION

Goldman Sachs & Co.
c/o Meghan Rissmiller, Esq.
Freshfields Bruckhaus Deringer LLP
700 13th Street, NW, 10th Floor
Washington, DC 20005
meghan.rissmiller@freshfields.com

RE: *In the Matter of Illumina, Inc., and GRAIL, Inc., Docket No. 9401*

Dear Ms. Rissmiller:

By this letter we are providing formal notice, pursuant to Rule 3.45(b) of the Commission's Rules of Practice, 16 C.F.R. § 3.45(b), that Complaint Counsel intends to offer the documents and testimony referenced in the enclosed Attachment A into evidence in the administrative trial in the above-captioned matter. For your convenience, a copy of the documents and testimony will be sent to you in a separate email with an FTP link.

The administrative trial is scheduled to begin on August 24, 2021. All exhibits admitted into evidence become part of the public record unless Chief Administrative Law Judge D. Michael Chappell grants *in camera* status (i.e., non-public/confidential).

For documents or testimony that include sensitive or confidential information that you do not want on the public record, you must file a motion seeking *in camera* status or other confidentiality protections pursuant to 16 C.F.R. §§ 3.45 and 4.10(g). If you do not file an *in camera* motion, your documents will not receive *in camera* treatment and may be publicly disclosed. Judge Chappell may order that materials be placed *in camera* only after finding that their public disclosure will likely result in a clearly-defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment.

Motions for *in camera* treatment for evidence to be introduced at trial must meet the strict standards set forth in 16 C.F.R. § 3.45 and explained in *In re Otto Bock Healthcare N. Am.*, 2018 WL 3491602 at *1 (July 2, 2018); and *In re I-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017). Motions also must be supported by a declaration or affidavit by a person qualified to explain the confidential nature of the material. *In re I-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017); *In re North Texas Specialty Physicians*, 2004 FTC LEXIS 66 (Apr. 23, 2004). For your convenience, we included, as links in the cover email, an example of a third-party motion (and the accompanying declaration or affidavit) for *in camera* treatment that was filed

and granted in an FTC administrative proceeding. If you choose to move for *in camera* treatment, you must provide a copy of the document(s) for which you seek such treatment to the Administrative Law Judge.

Also, please be advised, if you intend to file an *in camera* motion, you will need credentials for the Commission's electronic filing system and a Notice of Appearance. The Notice of Appearance must be approved by the Office of the Secretary and can take up to twenty-four ("24") hours to issue. As such, you will need to file your Notice of Appearance at least one day prior to the day on which you intend to file your *in camera* motion. I have attached an e-filing checklist to assist with this process.

Please be aware that under the current Scheduling Order **the deadline for filing motions seeking *in camera* treatment is August 5, 2021**. A copy of the April 26, 2021 Scheduling Order can be found at <https://www.ftc.gov/enforcement/cases-proceedings/201-0144/illumina-inc-grail-inc-matter>. If you have any questions, please feel free to contact me at (202) 326-3206.

Sincerely,

/s/ Samuel Fulliton
Samuel Fulliton
Counsel Supporting the Complaint

Attachment

Attachment A

PUBLICConfidentiality Notice
Attachment A

Exhibit No.	Bates - Begin	Bates - End	Date	Full Name
PX8409	GS-FTC-000000001	GS-FTC-000000013	8/19/2020	Presentation: Project Valor, Discussion Materials
PX8410	GS-FTC-000000014	GS-FTC-000000039	9/6/2020	Presentation: Project Valor, Board Materials
PX8411	GS-FTC-000000040	GS-FTC-000000053	9/14/2020	Presentation: Project Valor, Board Discussion Materials
PX8412	GS-FTC-000000054	GS-FTC-000000067	9/20/2020	Presentation: Project Valor, Board Discussion Materials
PX8413	GS-FTC-000000068	GS-FTC-000000133	9/30/2020	Presentation: Fitch Rating Agency Presentation
PX8414	GS-FTC-000000134	GS-FTC-000000201	10/1/2020	Presentation: S&P Rating Agency Presentation
PX8415	GS-FTC-000000202	GS-FTC-000000269	10/2/2020	Presentation: Moody's Rating Agency Presentation
PX9166	PX9166-001	PX9166-003	00/00/0000	Spreadsheet: Goldman Sachs - Grail_Illumina engagements since 2017.xls
PX9171	PX9171-001	PX9171-020	9/21/2020	Presentation: Illumina to Acquire Grail, Launching a New Era in Cancer Detection

EXHIBIT C

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Illumina, Inc., a corporation,

and

GRAIL, Inc., a corporation,

Respondents.

Docket No. 9401

**[PROPOSED] ORDER GRANTING NON-PARTY GOLDMAN SACHS'S
MOTION FOR *IN CAMERA* TREATMENT**

Pursuant to Rule 3.45(b) of the Rules of Practice of the Federal Trade Commission (“FTC”), the Scheduling Order entered in this matter on April 26, 2021, and the First Revised Scheduling Order entered in this matter on June 16, 2021, Non-party Goldman Sachs & Co. LLC has filed a motion for *in camera* treatment. Neither Complaint Counsel nor the Respondents oppose this motion.

Goldman Sachs’s motion for *in camera* treatment is GRANTED for ten years as to exhibits PX8409, PX8410, PX8411, and PX8412 in their entirety. The motion is also GRANTED for ten years as to the excerpts requested within exhibit PX9166. At the time that any documents that have been granted *in camera* treatment are offered into evidence or before any of the information contained therein is referred to in court, the parties shall identify such documents and the subject matter therein as *in camera*, inform the court reporter of the trial exhibit number(s) of such documents, and request that the hearing go into an *in camera* session.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: _____

EXHIBIT D

Exhibit No. PX8409

Confidential—Redacted in Entirety

EXHIBIT E

Exhibit No. PX8410

Confidential—Redacted in Entirety

EXHIBIT F

Exhibit No. PX8411

Confidential—Redacted in Entirety

EXHIBIT G

Exhibit No. PX8412

Confidential—Redacted in Entirety

EXHIBIT H

Exhibit No. PX9166

Document Placeholder

This document was produced in native format

Goldman Sachs - Grail_Illumina engagements since 2017.xls

PUBLIC

Goldman Sachs - Grail_Illumina
engagements since 2017.xls
PX9166-002

CONFIDENTIAL

IBRR Equity	Project Name	Created Date	Status	Status Date	Client Name	Product Name	Description	GS ROLE	Size USD (MM)
[REDACTED]	genic2018 [REDACTED]	23-Feb-18 [REDACTED]	Dead [REDACTED]	6-Oct-20 [REDACTED]	Grail Inc [REDACTED]	IPO [REDACTED]	US IPO [REDACTED]	Book Runner [REDACTED]	[REDACTED]
Equity	papaw2016	28-Dec-16	Closed	26-Apr-17	Grail	Private Placement	[REDACTED] aiding GRAIL in completing a Series B funding round of [REDACTED]	Placement Agent	[REDACTED]

CONFIDENTIAL

IBRR Investment Grade	Project Name	Created Date	Status	Status Date	Client Name	Product Name	Description	GS ROLE Lead Arranger	Other Side	Size USD (MM) 1,000
Merger	larkspur2020	11-Aug-20	Terms Agreed	21-Sep-20	illumina Inc.	Buyer Advisory	Acquisition of Grail Inc.	Exclusive Advisor	Grail Inc	8,000
Equity	zabrze2018	4-Jul-18	Closed	16-Aug-18	illumina Inc.	Convertibles				650
Merger	ulma2017	3-Aug-17	Dead	3-Jan-20	illumina Inc.	Buyer Advisory	Acquisition of Pacific Biosciences of California	Exclusive Advisor	Pacific Biosciences of California, Inc.	1,200

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2021, I filed the foregoing documents using the FTC's E-Filing System, which will send notification of such filing to:

Office of the Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I also hereby certify that I caused a true and correct copy of the foregoing documents to be served via email upon the Chief Administrative Law Judge, the Secretary's Office, and the following:

Susan Musser
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
smusser@ftc.gov

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Counsel for Respondent Illumina, Inc.

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Counsel for Respondent GRAIL, Inc.

Dated: August 5, 2021

By: s/ Meghan Rissmiller
Meghan Rissmiller