

Congress of the United States

Washington, DC 20515

April 29, 2024

The Honorable Gary Gensler
Chair
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549

Dear Chair Gensler:

We write to request that the Securities and Exchange Commission (SEC) conduct an investigation of reports that “UnitedHealth Group, Inc. Chairman Stephen Hemsley and three senior executives netted a combined \$101.5 million from stock sales” made over a four-month period between the time when UnitedHealth officials reportedly learned of a Department of Justice (DOJ) antitrust probe of the company and when the probe was first publicly reported.¹

The reports regarding these trades reveal a disturbing fact pattern, indicating that “UnitedHealth Group... received notice on Oct. 10, 2023, that the Department of Justice (DOJ) ‘non-public antitrust investigation into the company,’ according to a message distributed on Oct. 24 by Rupert Bondy, an executive vice president and chief legal officer of UnitedHealth Group.”² This investigation was first publicly reported on February 26, 2024,³ and appeared to be confirmed by other outlets soon after.⁴ UnitedHealth made no public confirmation of this investigation in its 2023 Annual Report or its most recent SEC filings.⁵

But earlier this month, Bloomberg News reported that four top executives at UnitedHealth sold stock in the time period prior to the public reports of the investigation:

On Oct. 17 and Dec. 5, [UnitedHealth Chairman Stephen] Hemsley exercised a portion of his stock options set to expire in 2024. He sold the shares he’d acquired

¹ Bloomberg News, “UnitedHealth Chair, Executives Sold \$102 Million in Stock Before US Probe Became Public.” John Tozzi and Anders Melin, April 11, 2024, <https://www.bloomberg.com/news/articles/2024-04-11/unitedhealth-unh-executives-sold-stock-before-us-probe-became-public>.

² The Examiner News, “Justice Department Probing UnitedHealth/Optum Over Antitrust Concerns; Local Layoffs Enacted, More Forecast,” Adam Stone, February 26, 2024, <https://www.theexaminernews.com/justice-department-probing-unitedhealth-optum-over-antitrust-concerns-local-layoffs-enacted-more-forecast/>.

³ *Id.*

⁴ Wall Street Journal, “U.S. Opens UnitedHealth Antitrust Probe,” Anna Wilde Matthews and Dave Michaels, Feb. 27, 2024, <https://www.wsj.com/health/healthcare/u-s-launches-antitrust-investigation-of-healthcare-giant-unitedhealth-ff5a00d2>.

⁵ UnitedHealth, Q1 Form 8-K Related to Earnings Release, April 16, 2024, <https://www.unitedhealthgroup.com/content/dam/UHG/PDF/investors/2024/UNH-Q1-2024-Form-8K.pdf>; UnitedHealth Group, “UnitedHealthGroup Reports 2023 Results,” January 12, 2024, <https://www.sec.gov/Archives/edgar/data/731766/000073176624000023/a2023q4exhibit991.htm>.

the same day, netting him \$84.9 million... Brian Thompson, CEO of the UnitedHealthcare insurance unit, on Feb. 16 exercised options and sold shares, netting him \$15.1 million.... Days later, Chief Accounting Officer Tom Roos sold shares worth about \$450,000. Chief People Officer Erin McSweeney on Oct. 16 exercised options and offloaded shares for a net gain of \$1.09 million.⁶

The timing of these trades – which occurred between “a week after [UnitedHealth]... reportedly received notice of the Justice Department probe, and... the day before Bloomberg News and others published stories about the investigation” – raises numerous questions.⁷ When UnitedHealth’s stock value fell by 5.2% immediately after the published reports of the investigation, there was “no indication that the trades were executed according to scheduled trading plans in filings related to the transactions,” and the trades occurred at a time when “[t]ypically a company’s general counsel would declare a blackout period barring trading in light of a sensitive investigation.”⁸

Federal law bars individuals from "purchasing or selling a security while in possession of material nonpublic information"⁹ – in this case, reportedly, a DOJ investigation of the company. Violation of these laws may subject individuals to civil penalties "three times the amount of the profit gained or loss avoided" and criminal penalties up to \$5,000,000 and 20 years imprisonment.¹⁰ Moreover, in addition to questions about these individuals’ trades, if UnitedHealth was aware of this investigation and failed to disclose it in public filings, it raises concerns about whether the company has met the requirements of SEC’s Regulation S-K rule.¹¹ Given these concerns, we ask that the SEC conduct a review of this matter, including a review of:

- 1) Was the existence of a DOJ investigation of UnitedHealth a materially important matter, and if so, was it appropriately disclosed by company officials?
- 2) Which individuals at UnitedHealth were involved in stock trades between the time that the company became aware of the DOJ investigation, and the time that this investigation became public?
- 3) Were these trades made by individuals who had access to material, nonpublic information, and if so, did these trades represent a violation of insider trading law?
- 4) Were these trades made under and consistent with any 10b5-1 plans or any other trading plans that covered the individuals involved?
- 5) Were the planned trades disclosed to and approved by appropriate individuals at UnitedHealth?

⁶ Bloomberg News, “UnitedHealth Chair, Executives Sold \$102 Million in Stock Before US Probe Became Public.” John Tozzi and Anders Melin, April 11, 2024, <https://www.bloomberg.com/news/articles/2024-04-11/unitedhealth-unh-executives-sold-stock-before-us-probe-became-public>.

⁷ *Id.*

⁸ *Id.*

⁹ Insider Trading Sanctions Act of 1984, Public Law 98-376.

¹⁰ 15 U.S.C. 78u-1); 15 U.S.C. 78ff.

¹¹ Securities and Exchange Commission, Regulation S-K (17 CFR Part 229).

- 6) Was the company at any time under a trading blackout period related to the investigation or its public reporting, and if so, were any trades made during this blackout period?

Thank you for your prompt attention to this matter.

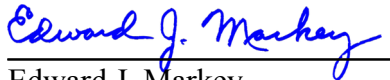
Sincerely,



Elizabeth Warren
United States Senator



Jake Auchincloss
Member of Congress



Edward J. Markey
United States Senator



James P. McGovern
Member of Congress



Ayanna Pressley
Member of Congress



Richard E. Neal
Member of Congress



Stephen F. Lynch
Member of Congress



Seth Moulton
Member of Congress



Lori Trahan
Member of Congress



Rashida Tlaib
Member of Congress




Katie Porter
Member of Congress



Summer Lee
Member of Congress



Patrick K. Ryan
Member of Congress



Mark Pocan
Member of Congress



Betty McCollum
Member of Congress



Pramila Jayapal
Member of Congress



Val Hoyle
Member of Congress