

Appendix C

June 18, 2002

The Honorable Jim Greenwood
U.S. House of Representatives
2436 Rayburn House Office Building
Washington, D.C. 20515-3808

The Honorable Peter Deutsch
U.S. House of Representatives
2421 Rayburn House Office Building
Washington, D.C. 20515-0920

Attn: Alan Slobodin

Dear Congressmen Greenwood and Deutsch:

In response to the Subcommittee's requests in connection with the sale of ImClone stock by our client Martha Stewart, we are providing the following information relating to Ms. Stewart's sale of her remaining ImClone shares on December 27, 2001. All of this confirms the information set forth in my prior letter to you of June 12.

1. **Raytheon Travel Air Flight Log:** On December 27, Ms. Stewart was en route by private jet from her home in Connecticut to Mexico for a holiday vacation. The enclosed flight log shows that Ms. Stewart's plane left Bridgeport, Connecticut at 8:17 am Central Standard Time ("CST") (or 9:17 am Eastern time), and made a refueling stop in San Antonio, Texas from 12:26 pm CST (or 1:26 pm Eastern time) to 13:01 CST (or 2:01 pm Eastern time), to refuel en route to a holiday vacation in Mexico.

While refueling in San Antonio, Ms. Stewart made three phone calls from her cell phone, outlined in 2 below with phone records attached.

2. **Cell Phone Records for December 27:** The attached cell phone records reflect the following three phone calls from

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Ms. Stewart (please note that all times are CST (local time), as has been confirmed to us by a Verizon Wireless corporate accounts supervisor): (1) a one-minute call to her home answering machine from 12:30 to 12:31 pm CST (or 1:30 pm-1:31 pm Eastern time); (2) an eleven-minute call to her office in New York at 12:31 pm CST (or 1:31 pm Eastern time); and (3) a two-minute call to ImClone's offices from 12:41 pm CST (or 1:41 pm to 1:43 pm eastern time).

With regard to call (2), Ms. Stewart used the occasion of the refueling stop to call her office. After discussion of other business-related matters with her office, Ms. Stewart was informed that Mr. Peter Bacanovic, her broker at Merrill Lynch, had called and she was connected by her assistant through to Mr. Bacanovic during that same call. While on the phone with Mr. Bacanovic, she was informed that ImClone had traded down below the price of \$60 that she and Mr. Bacanovic had previously agreed would be a trigger to sell her remaining position, and she told Mr. Bacanovic to sell the shares. Merrill Lynch promptly thereafter entered an order to sell all of Ms. Stewart's shares, which order was executed (see item 3 below).

With regard to call (3), Ms. Stewart's cell phone records also show that after her call to her office (during which call she had her conversation with Mr. Bacanovic), Ms. Stewart called ImClone's offices. As we previously advised you in the June 12 letter, Ms. Stewart did not reach Dr. Waksal and left a message with his assistant. Dr. Waksal did not return her call.

3. Copy of Merrill Lynch Order Ticket: The document you have requested is a Merrill Lynch document, which we believe Merrill Lynch would provide. We have been advised that the document shows that: (1) the end-of-day report, which is the Merrill Lynch equivalent of an order ticket, reflects that at 1:43 pm Eastern time, immediately

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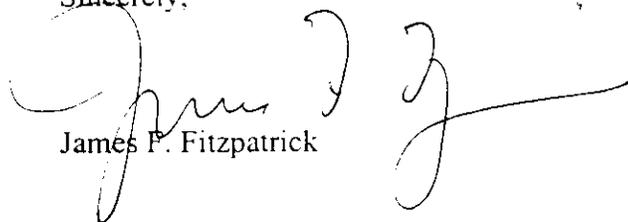
after Mr. Bacanovic's call with Ms. Stewart ended, Merrill Lynch placed a sell order for Ms. Stewart's shares; and (2) that order was promptly executed, at approximately \$58 per share.

You had further inquired whether we know the name of the private attorney representing Mr. Bacanovic in connection with this matter. We are not aware of any such attorney, but we have been told that Richard Weinberg, Esq., of Merrill Lynch in New York City, may be contacted on Mr. Bacanovic's behalf. Mr. Weinberg's telephone number is 212- [REDACTED]

As we said in our June 12 letter and as Ms. Stewart has stated publicly, Ms. Stewart did not receive any nonpublic information regarding ImClone prior to her sale, did not speak to Dr. Waksal on December 27 and sold her shares on that date based on her prior agreement with her broker to sell the remaining shares if the stock traded below \$60.

We hope the foregoing assists the Subcommittee in its review of the matter. Should you have any further questions, please do not hesitate to contact me.

Sincerely,



James P. Fitzpatrick

Enclosure