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February 7, 2022

VIA EMAIL AND HAND DELIVERY

Hisao Kushi
Chief Legal and Cultural Officer
Peloton Interactive, Inc.
441 Ninth Avenue, 6th Floor
New York, NY 10001

Re: Demand for Inspection of Books and Records Pursuant to Section 220(b) of the Delaware General Corporation Law

Dear Mr. Kushi:

I write on behalf of Blackwells Capital LLC (“Blackwells” or “Stockholder”), which is a current shareholder of Peloton Interactive, Inc. (“Peloton” or the “Company”).¹ Blackwells hereby demands that Peloton permit Blackwells, through counsel, to inspect certain books and records of Peloton pursuant to Section 220(b) of the Delaware General Corporation Law (“DGCL”).

Blackwells brings this demand for a proper purpose as required by Delaware law. Specifically, Blackwells seeks to (1) investigate potential breaches of fiduciary duty and/or other wrongdoing relating to mismanagement or self-dealing; (2) test the propriety of the company’s public disclosures; and (3) investigate the suitability of John Foley and his wife Jill Foley for the key roles in which they have been installed at Peloton.² Once Blackwells has reviewed the requested information, it will decide upon appropriate action, which may include (1) suggesting corporate governance reforms; (2) presenting a litigation demand to the board of directors (the “Board”); (3) filing a derivative action in lieu of making a demand, if demand would be futile; or (4) seeking an audience with the Board.

¹ Proof of Blackwells’ shareholder status at all relevant times will be provided to you under separate cover, along with a formal power of attorney designating Vinson & Elkins LLP as Blackwells’ attorneys-in-fact and agent for purposes of this demand and the inspection that it seeks. Blackwells will also provide a stockholder verification affirming that the purposes set forth herein constitute a true and accurate statement of the reasons Blackwells desires to review the demanded books and records, and that such demand is made in good faith, under oath, and under penalty of perjury.

² See *AmerisourceBergen Corp. v. Lebanon Cty. Employees’ Ret. Fund*, 243 A.3d 417, 425-27 (Del. 2020).

DEMAND BACKGROUND

I. Overview

Peloton “is the largest interactive fitness platform in the world,” offering “a first-of-its-kind subscription platform” for at home fitness and wellness classes.³ Peloton primarily sells two products: (1) internet-connected stationary bikes—*i.e.*, its “Bike” and “Bike+” lines; and (2) internet-connected treadmills—*i.e.*, its “Tread” and “Tread+” lines.⁴ Peloton also sells subscriptions to its various digital fitness classes, and Peloton branded fitness apparel.⁵

Peloton’s Chief Executive Officer and Chairman, John Foley, founded the Company in 2012.⁶ But Peloton never produced a profit until the fourth quarter of 2020.⁷ The Company experienced considerable revenue gains during most of 2020 and 2021, as the COVID-19 pandemic caused governments to issue stay-at-home orders and gym closures—creating a high demand for in-home exercise options. The Company initially acknowledged the positive impact of COVID-19 on its business. For example, on a September 2020 earnings conference call, John Foley explained to investors that Peloton was undergoing “staggering” growth because the “strong tailwind we experienced in March as the COVID-19 pandemic took hold has continued to propel demand for our products into the fourth quarter and first couple of months of Q1 fiscal year 2021.”⁸ Similarly, in a letter to shareholders, Peloton stated: “Fueled in part by the challenges associated with COVID-19, member engagement reached new highs with 164 million Connected Fitness Subscription workouts completed in FY 2020.”⁹ During the pandemic, Peloton shares rose from \$27.86 on February 7, 2020, to a high of \$162.72 on December 24, 2020.

II. Peloton’s Public Statements and Stock Drop

Since reaching its high of \$162.72 on December 24, 2020, Peloton’s shares have lost more than 80% of their value—trading at \$24.60 on February 4, 2022, which was well below their IPO price. This crash is attributable to a series of problems that have surfaced at Peloton that were largely hidden from shareholders.

³ See Peloton Interactive, Inc., Annual Report, 38 (Form 10-K) (Aug. 27, 2021) (the “2021 10-K”).

⁴ See *id.* at 5-6.

⁵ See *id.* at 5-8.

⁶ See *id.* at 15, 34.

⁷ See *id.* at 38.

⁸ Peloton Interactive Inc., *CEO John Foley on Q4 2020 Results—Earnings Call Transcript*, Seeking Alpha (Sept. 10, 2020), <https://seekingalpha.com/article/4373618-peloton-interactive-inc-pton-ceo-john-foley-on-q4-2020-results-earnings-call-transcript>.

⁹ Shareholder Letter, Peloton (Q4 2020), <https://investor.onepeloton.com/static-files/0160c736-f0d2-400a-8a20-6f6fc3f85659>.

First, on April 17, 2021, the United States Consumer Product Safety Commission (the “CPSC”) issued a press release warning the public that the Tread+ was unsafe, and required an immediate “notice to warn the public quickly of the hazard.”¹⁰ The CPSC stated that the Tread+ had caused at least thirty-nine incidents of children being harmed, including one death.¹¹ The CPSC “urged consumers with children at home to stop using the product immediately.”¹² In response, Peloton posted an email by John Foley to the public on its website, and a press release entitled, “CPSC Publishes Misleading, Inaccurate Bulletin On Tread+ Product Safety.”¹³ In the email, Foley stated that, although the “CPSC believes that [Peloton] should stop selling or recall the Tread+,” Foley could “assure” shareholders that Peloton has “no intention of doing so.”¹⁴ Despite Foley’s “assurances,” the stock dropped 14%. Eventually, on May 5, 2021, the Company recalled the Tread+ and John Foley acknowledged that Peloton had “made a mistake” by not acting sooner.¹⁵ The CPSC warning and subsequent recall stand in stark contrast to Peloton’s assurances that the Tread+ was safe. For example, on March 18, 2021, after reports of injuries to children caused by the Tread+, John Foley sent an email to Tread+ owners to reassure them about safety.¹⁶ It stated that Peloton “design[s] and build[s] all of our products with safety in mind” and that owners could ensure safety by “keep[ing] children and pets away from Peloton exercise equipment at all times.”¹⁷ The CPSC disagreed, and ultimately determined that owners needed to “[s]top using the Peloton Tread+ if there are small children or pets at home.”¹⁸ Peloton ultimately recalled the product.

Second, on November 4, 2021, Peloton made two negative disclosures: (1) the Company slashed its full year revenue guidance by up to \$1 billion (to a range of only \$4.4 to \$4.7 billion) due to declining demand as customers went back to the gym;¹⁹ and (2) Peloton disclosed \$1.27 billion in total inventory—

¹⁰ *CPSC Warns Consumers: Stop Using the Peloton Tread+*, United States Consumer Product Safety Commission (Apr. 17, 2021), <https://www.cpsc.gov/Newsroom/News-Releases/2021/CPSC-Warns-Consumers-Stop-Using-the-Peloton-Tread> (the “CPSC Notice”).

¹¹ *See id.*

¹² *Id.*

¹³ *See Tread+ Update from Peloton CEO John Foley: No Plans for Peloton Tread+ Recall, Backup Access Code Being Added*, Pelobuddy (Apr. 18, 2021), <https://www.pelobuddy.com/tread-update-letter-ceo/> (“Foley Email”); Press Release, CPSC Publishes Misleading, Inaccurate Bulletin On Tread+ Product Safety—CPSC Publishes Misleading, Inaccurate Bulletin On Tread+ Product Safety, Peloton Interactive, Inc. (Apr. 17, 2021), <https://investor.onepeloton.com/news-releases/news-release-details/peloton-refutes-consumer-product-safety-commission-claims>.

¹⁴ Foley Email.

¹⁵ Erin McHugh, *Peloton CEO Apologizes, Recalls All Its Treadmills After Child Death, 70 Incidents*, ABC10 (May 5, 2021), <https://www.abc10.com/article/news/nation-world/us-peloton-recall-treadmills/507-44f9edfc-53e8-4bd5-819f-9b459ccde749>.

¹⁶ John Foley, *A Note from Peloton CEO John Foley about Tread+*, Peloton Interactive, Inc. (Mar. 18, 2021), <https://www.onepeloton.com/press/articles/tread-plus-initial-statement>

¹⁷ *Id.*

¹⁸ *See* CPSC Notice.

¹⁹ Shareholder Letter, Peloton 2 (Q1 2022), <https://investor.onepeloton.com/static-files/4e16bcc7-dd3b-40ec-acb6-840e691b40ee> (“Given the unprecedented circumstances presented by the Covid-19 pandemic, it is more challenging to guide our expected results.”).

a 35% increase over the prior quarter, 91% of which consisted of “finished products” that the Company still held.²⁰ The following day, Peloton’s stock dropped 35% (from \$86.06 to \$55.64). Prior to disclosing these two problems, Peloton insiders downplayed both of them.

Despite not reporting a profitable quarter before the COVID-19 pandemic, Peloton management and directors have made a series of statements promising that the pandemic’s dissipation would not negatively impact the Company’s returns. For example:

- On December 9, 2020, during Peloton’s annual shareholder meeting, John Foley stated, “Now that Peloton is here and now that the experiences at home are incredible, that is not—*that has nothing to do with COVID*. That is a human need of I want to get fit, I want fitness in my life in a consistent way; every week, I want to get three or four workouts in, and I want it to be convenient, I want it to be fun, I want it to be motivating, and I want it to be a great value. And all of those things are foundational to what Peloton delivers, always delivered it. We delivered it in pre-COVID, during COVID, and we will deliver it post-COVID.”²¹
- On May 6, 2021, during Peloton’s fiscal year 2021 third quarter earnings call, Peloton’s Chief Financial Officer (“CFO”), Jill Woodworth, stated, “[O]bviously, last year was a big comp. It was the first few months of COVID. But that type of growth, over a two-year stack, we’re pretty excited about and *we believe that that can continue into fiscal 2022*.”²²
- On May 25, 2021, while answering questions at the J.P. Morgan Global Technology, Media and Communications Conference, CFO Woodworth stated that Peloton is “not about just being at home. It’s about the value, convenience, and efficiency of the work out experience that we provide. *And that doesn’t change with COVID*.”²³

These positive assessments of COVID’s allegedly limited role in propping up Peloton’s revenue proved to be untrue.

Similarly, Peloton insiders painted a rosy picture of the Company’s capacity to match its supply of inventory to the demand for its product (*i.e.*, that it was ramping up supply to meet a growing demand). Peloton insiders made such statements both before and after the Company disclosed a material weakness in its financial controls relating to its inventory on August 26, 2021.²⁴ For example:

²⁰ See Peloton Interactive, Inc., Quarterly Report, 13, (Form 10-Q) (Nov. 4, 2021).

²¹ Peloton Interactive, Inc., *Shareholder/Analyst Call*, S&P Global (Dec. 9, 2020).

²² *Peloton Interactive (PTON) Q3 2021 Earnings Call Transcript*, The Motley Fool (March 31, 2021), <https://www.fool.com/earnings/call-transcripts/2021/05/07/peloton-interactive-pton-q3-2021-earnings-call-tra/>.

²³ Peloton Interactive, Inc., *Company Conference Presentation*, S&P Global (May, 25, 2021) (emphasis added).

²⁴ See Peloton Interactive, Inc., Current Report, Exh. 99.1, 10 (Form 8-K) (Aug. 26, 2021).

- Peloton’s February 4, 2021, shareholder letter states, “our supply chain investments over the last several months are helping us better match our supply and demand going forward.”²⁵
- Peloton’s President, William Lynch, stated—even after Peloton disclosed a “material weakness” in its financial controls relating to its inventory—that “everything in the supply chain from inventory that you’re noting, the accumulation up on the balance sheet, to warehousing and how we’ve expanded our warehouse footprint, to our delivery infrastructures, people, vans, our last-mile facilities, all that we’re staging for what will be our biggest holiday ever. . . . we’re in a really good position to execute this plan this year.”²⁶

In reality, however, Peloton had far too much inventory and far too little demand.

Third, in January 2022, a series of news reports pushed Peloton’s stock to decline further, starting with the January 16 announcement that customers would be asked to pay an additional \$250 delivery and setup fee for its Bike, and \$350 in fees for its Tread.²⁷ On January 18, news broke that Peloton would potentially cut jobs and close retail stores.²⁸ Two days later, news outlets reported that the Company would stop its production of its Bike for two months, would not manufacture its Tread product for six weeks, and does not plan to manufacture its Tread+ product for its fiscal year 2022.²⁹ This resulted in Peloton’s stock price plummeting 23.9% in a single day. Finally, on January 31, 2022, news emerged that Peloton expects apparel revenue from its apparel division, headed by John Foley’s wife, Jill Foley, to be approximately \$150 million—which is \$50 million less than the Company’s initial projections for the division in its fiscal year 2022.³⁰

²⁵ Peloton Interactive, Inc., Current Report 3 (Form 8-K) (Feb. 4. 2021).

²⁶ Peloton Interactive, Inc (PTON) CEO John Foley on Q4 2021 Results—Earnings Call Transcript, Seeking Alpha (Aug. 26, 2021), <https://seekingalpha.com/article/4452144-peloton-interactive-inc-pton-ceo-john-foley-on-q4-2021-results-earnings-call-transcript>.

²⁷ Lauren Thomas, *Peloton is about to tack on hundreds of dollars in fees to its Bike and treadmill, citing inflation*, CNBC (Jan. 16, 2022), <https://www.cnbc.com/2022/01/17/peloton-is-about-to-tack-on-hundreds-of-dollars-in-fees-to-its-bike-and-treadmill-citing-inflation.html>.

²⁸ Lauren Thomas, *Peloton hires McKinsey to review cost structure; cycle maker may cut jobs, close stores*, CNBC (Jan. 19, 2022), <https://www.cnbc.com/2022/01/18/peloton-hires-mckinsey-to-review-cost-structure-as-equipment-sales-slow.html?fr=operanews>.

²⁹ Lauren Thomas, *Peloton to halt production of its Bikes, treadmills as demand wanes*, CNBC (Jan. 20, 2022), <https://www.cnbc.com/2022/01/20/peloton-to-pause-production-of-its-bikes-treadmills-as-demand-wanes.html>.

³⁰ Lauren Thomas, *Peloton internal docs show it slashed 2022 sales goals for apparel unit after segment revenue more than doubled last year*, CNBC (Jan. 31, 2022), <https://www.cnbc.com/2022/01/31/peloton-internal-docs-show-it-slashed-2022-sales-goals-for-apparel-unit.html>.

III. Insider Selling

Peloton's stock closed at \$24.60 on February 4, 2022, and is down more than 80% over the last year, with a fifty-two week range between \$157.83 and \$22.81. During the period immediately prior to Peloton's major stock drop, insiders sold approximately \$500 million in stock.³¹ For example, in November 2020, John Foley began selling approximately \$119 million in Peloton stock at prices of \$110 per share or higher.³²

* * *

The events described above have generated multiple securities, consumer and derivative lawsuits, as well as investigations by the Department of Justice and the Securities and Exchange Commission.³³ The Board and management failed to address these problems despite red flags indicating that the Company's policies and procedures were inadequate, and that the Company was at risk of violating the law. As a result of the foregoing, there is a credible basis to seek further information from the Company regarding potential breaches of duties owed to the Company by Peloton's Board and senior management.

DEMAND PURPOSES

Through this Demand, Blackwells seeks to inspect the books and records of the Company pursuant to Section 220(b) of the DGCL. Blackwells seeks inspection for the following purposes:

- i. to investigate possible breaches of fiduciary duty, mismanagement, other wrongdoing, and/or violations of law by members of the Company's Board and management, including the Company's senior officers (at times herein referred to as the "Directors and Officers"), in connection with (a) statements in public disclosures; (b) decisions to not recall Tread+ before and after the CPSC warned the public not to use it; (c) the material internal controls weakness related to inventory identified in the Company's August 26, 2021 Form 8-K; and (d) the decision to hire Jill Foley as the head of the Company's apparel division;

³¹ See Robert Frank, *Peloton insiders sold nearly \$500 million in stock before its big drop, SEC filings show*, CNBC (Jan. 19, 2022), <https://www.cnbc.com/2022/01/19/peloton-insiders-sold-nearly-500-million-in-stock-before-its-big-drop-.html>.

³² See *id.*

³³ See *Deulina v. Peloton Interactive Inc., et al.*, No. 21-cv-10266 (S.D.N.Y.); *In re Peloton Interactive, Inc. Derivative Litigation*, No. 21-cv-2862 (E.D.N.Y.); *In Re Peloton Interactive, Inc. Securities Litigation*, No. 21-cv-2369 (E.D.N.Y.); *Albright v. Peloton Interactive, Inc.*, No. 21-cv-2858 (N.D. Cal.); 2021 10-K at 18 (disclosing Department of Justice and Securities and Exchange Commission investigations relating to Tread+ disclosures). Blackwells is not a party to any of these lawsuits.

- ii. to test the veracity of the statements of Directors and Officers concerning revenue, profits, and inventory;
- iii. to test the propriety of the Company's public disclosures regarding safety of its Tread and Tread+ products;
- iv. to investigate Mr. Foley's and Ms. Foley's suitability for their respective roles at the Company;
- v. to consider any remedies to be sought in respect of the aforementioned conduct; and
- vi. to use information obtained through inspection of the Company's books and records to evaluate possible litigation on behalf of the Company, other corrective measures with respect to some or all of these matters, or to seek an audience with the Board regarding some or all of these matters.

Each of these is a proper purpose under Delaware law that is reasonably related to Blackwells' interest as a stockholder of the Company.³⁴ As courts have recognized, a stockholder may use a books and records demand to determine whether directors and officers breached fiduciary duties by making material misstatements to the public.³⁵ A stockholder may also use a books and records demand to determine a director or officer's suitability for office.³⁶

These documents are necessary to investigate whether the Company's Directors and Officers have committed mismanagement or breached their fiduciary duties in connection with the events stated above. Blackwells demands these books and records, in part, to ascertain whether litigation is necessary to remedy the harms caused. The books and records Blackwells seeks in this Demand will be used to determine what the Company's Directors and Officers knew concerning (1) the veracity of statements made by the Company or Company representatives about its viability for growth after the COVID-19 pandemic; (2) the Company's assessments of the safety of its Tread and Tread+ products; (3) issues with internal controls for inventory and the matching of inventory to supply; (4) the reasons for hiring Ms. Foley as head of Peloton's apparel division, including the evaluation of any conflicts of interest present in the decision to

³⁴ See *AmerisourceBergen*, 243 A.3d at 425 ("Myriad proper purposes have been accepted under Delaware law including: the determination of the value of one's equity holdings, evaluating an offer to purchase shares, inquiring into the independence of directors, investigation of a director's suitability for office, testing the propriety of the company's public disclosures, investigation of corporate waste, and investigation of possible mismanagement or self-dealing.") (citations and quotations omitted).

³⁵ See, e.g., *Inter-Loc. Pension Fund GCC/IBT v. Calgon Carbon Corp.*, No. 2017 Civ. 0910, 2019 WL 479082, at *15 (Del. Ch. Jan. 25, 2019) ("[T]he Fund states a proper purpose to investigate Calgon's disclosures. . . .").

³⁶ See, e.g., *Pershing Square, L.P. v. Ceridian Corp.*, 923 A.2d 810, 818 (Del. Ch. 2007) (holding that determining a director's suitability for office is a proper purpose for a books and records demand).

do so; (5) whether material information was known to members of management but concealed from the Board; and (6) whether the Company has adequate policies, procedures, and safeguards in place to ensure compliance with applicable laws.

An additional purpose for the Demand is to take appropriate action in light of any failure of the Company's Directors and Officers to properly discharge their duties. This purpose relates to a stockholder's decision on how to act in the event the demanded inspection reveals impropriety or actionable conduct. Possible courses of conduct include making a demand on the Company's Board of Directors to take action or initiating litigation against or on the Company's behalf.

Blackwells hereby affirms that the purposes for the demanded inspection as set forth above constitute a true and accurate statement of the reasons they desire to review the demanded books and records and that such demand is made in good faith. The Demand's purposes are proper and reasonably related to Blackwells' interests as a stockholder of the Company.

BOOKS AND RECORDS DEMANDED

In accordance with Section 220(b) of the DGCL, the Company must produce for inspection the books and records requested in the possession of the Company, its subsidiaries, affiliates, directors, advisors, agents, or any other person or entity subject to the Company's control.³⁷

Blackwells hereby demands that Blackwells and its attorneys, representatives, and agents be given, during regular business hours, the opportunity to inspect or receive from the Company the following books and records, and to make copies or extracts therefrom:

1. Board Materials between April 17, 2020, and present, concerning:
 - i. Tread+ safety issues—including (but not limited to) Peloton's reasons for not recalling the Tread+ before or immediately after the CPSC's safety warning on April 17, 2021;
 - ii. the CPSC, SEC, and DOJ investigations regarding the Tread+;
 - iii. Peloton's full year 2022 revenue guidance;

³⁷ For purposes of the demand, "books and records" as used herein is defined as broadly as possible under the DGCL and applicable Delaware case law and includes, without limitation, any and all documents (both physical and digital), including correspondence concerning the demanded categories, whether sent via mail, facsimile, electronic communication (including but not limited to email), or otherwise.

- iv. Peloton's inventory, including (but not limited to) the matching of inventory supply to consumer demand;
 - v. material weaknesses in internal controls during FY 2021;
 - vi. the Company's apparel division's performance;
 - vii. the hiring of Jill Foley;
 - viii. reasons for discontinuing Mr. Foley's 10b5-1 plan; and
 - ix. all public disclosures regarding items i to viii.³⁸
2. Communications, including electronic communications, between April 17, 2020, and present, between the Board and/or Company management concerning:
- i. Tread+ safety issues, including (but not limited to) reasons for not recalling the Tread+ before or after the CPSC's warning on April 17, 2021;
 - ii. the CPSC, SEC, and DOJ investigations regarding the Tread+;
 - iii. Peloton's full year 2022 revenue guidance;
 - iv. Peloton's inventory, including (but not limited to) the matching of inventory supply to consumer demand.
 - v. material weaknesses in internal controls during FY 2021;
 - vi. the Company's apparel division's performance;
 - vii. the hiring of Jill Foley;
 - viii. reasons for discontinuing Mr. Foley's 10b5-1 plan; and

³⁸ "Board Materials" include (without limitation) minutes of and documents provided at, considered at, discussed at, or prepared or disseminated, in draft or final form, in connection with, in anticipation of, or as a result of any meeting, whether formal or informal, of the Board, including, without limitation, all presentations, Board packages, recordings, agendas, preparation materials, summaries, memoranda, charts, transcripts, notes, minutes of meetings, drafts of minutes of meetings, exhibits distributed at meetings, summaries of meetings, and resolutions. This request includes Board Materials hosted on electronic portals or platforms, including, without limitation, any edits, notes, comments, or communications, hosted on such portal or platform.

ix. all public disclosures regarding items i to viii.

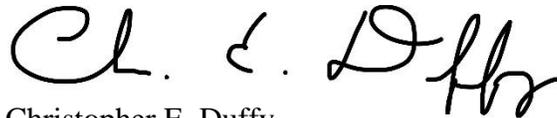
These requests are reasonable in scope, given the purposes identified above.³⁹ Blackwells reserves its right to modify these requests, or to supplement this Demand with additional requests.

INSTRUCTIONS FOR COMPLIANCE

Please advise me when and where the items demanded above will be made available for Blackwells' inspection. If Peloton contends that this demand is incomplete or is otherwise deficient in any respect, please notify me in writing immediately, setting forth the fact that the Company contends supports its position, and any additional information believed to be required. In the event that the Company does not respond to this letter or fails to permit inspection and copying of the demanded documents within five (5) business days from receipt of this Demand and the supplemental materials identified in footnote 1 above, then Stockholder will seek appropriate relief to the fullest extent permitted by law.

Blackwells requests that the items demanded be produced within thirty (30) days, and is willing to execute a reasonable confidentiality agreement in connection with the Company's production of the information demanded. Blackwells is further willing to pay the reasonable costs of copying any books and records containing the information demanded.

Sincerely,

A handwritten signature in black ink, appearing to read "Ch. E. Duffy". The signature is written in a cursive, slightly stylized font.

Christopher E. Duffy

³⁹ See *AmerisourceBergen*, 243 A.3d at 439-40.