March 8, 2020

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

# 5 Rule 14a-8 Proposal
Teladoc, Inc. (TDOC)
Elect Directors by Majority Vote
James McRitchie

Ladies and Gentlemen:

This is in regard to the January 22, 2020 no-action request.

Management implicitly claims that its email security vendor can trap a 2019 incoming message with a rule 14a-8 proposal from an email sender to Ms. Samantha Macina, Associate Director & Corporate Counsel, and this same email sender received 13 email messages in 2019 from Ms. Macina.

Management implicitly claims that its email security vendor has the liberty to omit bounce messages when it prevents incoming email messages from entering the inbox of Ms. Samantha Macina, Associate Director & Corporate Counsel.

Management did not say whether it is an acceptable practice for an attorney to prevent email messages from entering an attorney’s inbox from a frequent email correspondent and at the same time thwart a bounce message.

Sincerely,

John Chevedden

cc: James McRitchie

Samantha Macina <smacina@teladochealth.com>
March 2, 2020

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

# 4 Rule 14a-8 Proposal
Teladoc, Inc. (TDOC)
Elect Directors by Majority Vote
James McRitchie

Ladies and Gentlemen:

This is in regard to the January 22, 2020 no-action request.

The management February 28, 2020 supplement in effect says that any person who received 13 email messages in 2019 from Ms. Samantha Macina – Associate Director & Corporate Counsel – and then sends an email to Ms. Macina in December 2019 can be tricked into believing a December 2019 email was received.

In other words the company email security vendor could prevent any email message from such a well known recipient of Ms. Macina’s 2019 email messages from being received and fail to give the sender any indication that his message was not received.

If one is to believe management, then Ms. Macina – Associate Director & Corporate Counsel – may have a backlog of replies from well known recipients of Ms. Macina’s 2019 email messages that were blocked by the company email security vendor. Perhaps management can shed some light on this.

It would seem to be a universally sound practice by an email security vendor to alert email senders that their messages did not go through. Such a practice would decrease the number of unwanted email messages.

Management is saying in effect that if it can find a defect in one of the redundant methods the proponent used to deliver the proposal – management is home free.

The rule 14a-8 proposal was sent by email to
Ms. Samantha Macina <smacina@teladochealth.com>
on December 15, 2019 according to the attached evidence.

Also attached is evidence of 13 email messages in 2019 from Ms. Samantha Macina using the same email address.
Sincerely,

John Chevedden

cc: James McRitchie

Samantha Macina <smacina@teladochealth.com>
----- Forwarded Message
From: John Chevedden
Date: Sun, 15 Dec 2019 12:12:14 -0800
To: "Adam C. Vandervoort" <AVandervoort@teladoc.com>
Cc: Samantha Macina <smacina@teladochealth.com>, Courtney McLeod <cmcleod@teladoc.com>
Subject: Rule 14a-8 Proposal (TDOC)"

Mr. Vandervoort,
Please see the attached rule 14a-8 proposal to improve corporate governance and enhance
long-term shareholder value at de minimis up-front cost – especially considering the
substantial market capitalization of the company.
Sincerely,
John Chevedden

----- End of Forwarded Message
--- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Mon, 25 Feb 2019 22:04:59 +0000
To: John Chevedden
Subject: RE: Teladoc Proxy Access Bylaw Adopted (TDOC)

--- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Fri, 22 Feb 2019 22:02:36 +0000
To: John Chevedden
Subject: Teladoc Proxy Access Bylaw Adopted

--- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Fri, 25 Jan 2019 15:55:05 +0000
To: John Chevedden
Subject: RE: Rule 14a-8 Proposal (TDOC)

--- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Wed, 23 Jan 2019 15:37:54 +0000
To: John Chevedden
Subject: RE: Rule 14a-8 Proposal (TDOC)

--- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Wed, 23 Jan 2019 00:00:07 +0000
To: John Chevedden
Subject: RE: Rule 14a-8 Proposal (TDOC) wd

--- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Tue, 22 Jan 2019 19:30:08 +0000
To: John Chevedden
Subject: RE: Rule 14a-8 Proposal (TDOC)

--- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Mon, 21 Jan 2019 17:31:48 +0000
To: John Chevedden
Subject: RE: Rule 14a-8 Proposal (TDOC)
----- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Thu, 17 Jan 2019 20:50:38 +0000
To: John Chevedden ***
Subject: RE: Rule 14a-8 Proposal (TDOC)

----- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Wed, 16 Jan 2019 02:52:53 +0000
To: John Chevedden ***
Subject: Automatic reply: Rule 14a-8 Proposal (TDOC)

----- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Tue, 15 Jan 2019 17:31:17 +0000
To: John Chevedden ***
Subject: RE: Rule 14a-8 Proposal (TDOC)

----- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Mon, 14 Jan 2019 18:47:06 +0000
To: John Chevedden ***
Subject: RE: Rule 14a-8 Proposal (TDOC)

----- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Fri, 11 Jan 2019 14:00:41 +0000
To: John Chevedden ***
Subject: RE: Rule 14a-8 Proposal (TDOC)

----- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Wed, 9 Jan 2019 14:50:23 +0000
To: John Chevedden ***
Subject: Teladoc Shareholder Proposal
February 28, 2020

VIA ELECTRONIC MAIL

Office of the Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re:   Teladoc Health, Inc.
      Supplement to Letter dated January 22, 2020
      Relating to Stockholder Proposal of Myra K. Young and James McRitchie
      Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

We refer to our letter dated January 22, 2020 (the “No-Action Request”), submitted on behalf of Teladoc Health, Inc. (the “Company”), pursuant to which we requested that the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission concur with the Company’s view that the purported stockholder proposal attempted to be submitted by Myra K. Young and James McRitchie (the “Proponents”) may be excluded from the Company’s proxy materials to be distributed in connection with its 2020 annual meeting of stockholders (the “2020 Proxy Materials”).

This letter is in response to the letter submitted to the Staff by Mr. Chevedden on behalf of the Proponents, dated January 26, 2020 (the “January 26 Letter”), and supplements the No-Action Request. In accordance with Rule 14a-8(j), a copy of this letter is also being sent to the Proponents and Mr. Chevedden.

The facsimile from the Proponents received by the Company on December 15, 2019 (attached as Exhibit A to the No-Action Request, the “Facsimile”) indicated that Mr. Chevedden intended to submit the Facsimile and a shareholder proposal by email to three Company employees: Adam C. Vandervoort, Chief Legal Officer and Secretary of the Company; Jisoo Suh, former Director of Investor Relations at the Company; and Courtney McLeod, the Company’s contact for media inquiries. However, as noted in the No-Action Request, the email address for Mr. Vandervoort was misspelled; Ms. Suh had not been employed by the Company since August of 2017; and Ms. McLeod is in the Company’s marketing department, not in the Company’s principal executive offices, and is thus not a proper addressee for delivery of proposals under Rule 14a-8 and, in addition, Ms. McLeod has no record of having received the Facsimile from Mr. Chevedden or the Proponents in her inbox or in her malicious email filters.
Thus, no proposal was ever received by the Company prior to the Company’s December 21, 2019 deadline for submission of Rule 14a-8 proposals.

Now, nearly six weeks after that deadline, Mr. Chevedden sends the January 26 Letter, which includes a copy of an email that Mr. Chevedden attempted to send to the Company on December 15, 2019, which purported to contain a stockholder proposal (the “Email”). The Company received a copy of the January 26 Letter, enclosing a copy of the Email, on February 7, 2020. In the Email, the email address for Mr. Vandervoort was misspelled, Ms. Suh was not included on the list of recipients and the Company has no indication that Ms. McLeod, who is not a proper addressee for proposals under Rule 14a-8, ever received the Email.

The January 26 Letter indicated for the first time that, in addition to the three individuals whose names and emails were included in the Facsimile, Mr. Chevedden also attempted to send the Email to Samantha Macina, Associate Director & Corporate Counsel at the Company. Ms. Macina did not receive the Email in her inbox or have any indication that the Email was sent to her on December 15, 2019. The January 26 Letter is the first time Mr. Chevedden has indicated that the Facsimile was sent to anyone at the Company other than the three individuals whose names and emails were included in the Facsimile.

Upon receipt of the January 26 Letter and the Email, the Company researched Ms. Macina’s email records. It was then, on or about February 7, 2020, that the Company discovered that the Email had been blocked by the Company’s email security vendor as a potentially malicious email, and thus never made it to Ms. Macina’s inbox. Because Ms. Macina was not included in the list of recipients on the Facsimile, she had no reason to request this search of her records prior to February 7, 2020.

According to the policies of the Company’s email security vendor, emails marked as malicious are quarantined and then automatically deleted after 30 days. So while the Company was able to confirm that an email was sent from Mr. Chevedden to Ms. Macina on December 15, 2019, it was not able to recover any portion of the original message or confirm whether or not the Email contained any attachments.

Had the Company been made aware that Ms. Macina was an intended recipient of the Email at the time of transmission of the Facsimile, the Company would have conducted the search of Ms. Macina’s email records earlier. However, because the Facsimile listed specific individuals that were to receive the Email (none of whom received it), and that list did not include Ms. Macina, the Company had no reason to conduct a search of Ms. Macina’s email records prior to receipt of the January 26 Letter.

Staff Legal Bulletin No. 14C and subsequent no-action letters issued by the Staff make clear that when a proponent elects to deliver a proposal via alternative delivery methods, such as facsimile or email, the proponent bears the burden of ensuring proper submission and receipt of proposal by the Company. Mr. Chevedden could have easily met this burden (i) with a telephone call to Ms. Macina; (ii) by ensuring that he had obtained the correct email addresses for submission of a proposal; (iii) by including Ms. Macina on the list of intended email recipients.
included with the Facsimile; (iv) by submitting a copy of the proposal via a trackable delivery service; or (v) by many other methods, none of which were invoked.

The Proponents and Mr. Chevedden were responsible for ensuring delivery of a stockholder proposal to the Company prior to the deadline prescribed in the Company’s proxy materials. As of the date of this letter, more than two months after the deadline for submission of stockholder proposals under Rule 14a-8 and less than six weeks prior to the Company’s anticipated filing date for the 2020 Proxy Materials, the Company has still not received a stockholder proposal from the Proponents or Mr. Chevedden by any method.

Thus, for the reasons stated above and in the No-Action Request, we respectfully request that the Staff concur that it will take no action if the Company excludes the purported stockholder proposal by the Proponents or Mr. Chevedden from the 2020 Proxy Materials. Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of the Company’s position, we would appreciate the opportunity to confer with the Staff concerning these matter prior to the issuance of the Staff’s response. Please do not hesitate to contact the undersigned at (202) 637-2332.

Very truly yours,

Brian D. Miller
of LATHAM & WATKINS LLP

Enclosures

cc: Myra K. Young
    James McRitchie
    John Chevedden
    Samantha Macina, Associate Director & Corporate Counsel – Securities and Governance at Teladoc Health, Inc.
February 2, 2020

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

# 3 Rule 14a-8 Proposal
Teladoc, Inc. (TDOC)
Elect Directors by Majority Vote
James McRitchie

Ladies and Gentlemen:

This is in regard to the January 22, 2020 no-action request.

Management is saying in effect that if it can find a defect in one of the redundant methods the proponent used to deliver the proposal – management is home free.

The rule 14a-8 proposal was sent by email to
Ms. Samantha Macina <smacina@teladochealth.com>
on December 15, 2019 according to the attached evidence.

Also attached is evidence of 13 email messages in 2019 from Ms. Samantha Macina using the same email address.

Sincerely,

John Chevedden

cc: James McRitchie

Samantha Macina <smacina@teladochealth.com>
From: John Chevedden
Date: Sun, 15 Dec 2019 12:12:14 -0800
To: "Adam C. Vandervoort" <AVandervoort@teladoc.com>
Cc: Samantha Macina <smacina@teladochealth.com>, Courtney McLeod <cmcledo@teladoc.com>
Subject: Rule 14a-8 Proposal (IDOC)

Mr. Vandervoort,
Please see the attached rule 14a-8 proposal to improve corporate governance and enhance long-term shareholder value at de minimis up-front cost – especially considering the substantial market capitalization of the company.
Sincerely,
John Chevedden

End of Forwarded Message
----- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Thu, 17 Jan 2019 20:50:38 +0000
To: John Chevedden
Subject: RE: Rule 14a-8 Proposal (TDOC)

----- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Wed, 16 Jan 2019 02:52:53 +0000
To: John Chevedden
Subject: Automatic reply: Rule 14a-8 Proposal (TDOC)

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To: John Chevedden
Subject: RE: Rule 14a-8 Proposal (TDOC)

----- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Fri, 11 Jan 2019 14:00:41 +0000
To: John Chevedden
Subject: RE: Rule 14a-8 Proposal (TDOC)

----- Forwarded Message
From: Samantha Macina <smacina@teladochealth.com>
Date: Wed, 9 Jan 2019 14:30:23 +0000
To: John Chevedden
Subject: Teladoc Shareholder Proposal
January 26, 2020

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

#2 Rule 14a-8 Proposal
Teladoc, Inc. (TDOC)
Elect Directors by Majority Vote
James McRitchie

Ladies and Gentlemen:

This is in regard to the January 22, 2020 no-action request.

Management is saying in effect that if it can find a defect in one of the redundant methods the proponent used to deliver the proposal – management is home free.

The rule 14a-8 proposal was sent by email to Ms. Samantha Macina on December 15, 2019 according to the attached evidence. Ms. Macina is copied on the hard copy of the no action request but not on the email copy of the no action request. In fact no company employee is copied on the email copy of the no action request – perhaps the company can address this point.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2020 proxy.

Sincerely,

John Chevedden

cc: James McRitchie

Samantha Macina <smacina@teladochealth.com>
----- Forwarded Message
From: John Chevedden
Date: Sun, 15 Dec 2019 12:12:14 -0800
To: "Adam C. Vandervoort" <AVandervoort@teladoc.com>
Cc: Samantha Macina <smacina@teladochealth.com>, Courtney McLeod <cmcleod@teladoc.com>
Subject: Rule 14a-8 Proposal (TDOC)

Mr. Vandervoort,
Please see the attached rule 14a-8 proposal to improve corporate governance and enhance long-term shareholder value at de minimis up-front cost – especially considering the substantial market capitalization of the company.

Sincerely,
John Chevedden

----- End of Forwarded Message
January 22, 2020

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

# 1 Rule 14a-8 Proposal
Teladoc, Inc. (TDOC)
Elect Directors by Majority Vote
James McRitchie

Ladies and Gentlemen:

This is in regard to the January 22, 2020 no-action request.

The rule 14a-8 proposal was sent by email to Ms. Samantha Macina on December 15, 2019.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2019 proxy.

Sincerely,

John Chevedden

cc: James McRitchie

Samantha Macina <smacina@teladochealth.com>
January 22, 2020

VIA ELECTRONIC MAIL

Office of the Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re:  Teladoc Health, Inc.
Stockholder Proposal of Myra K. Young and James McRitchie
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

This letter is submitted pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Teladoc Health, Inc., a Delaware corporation (the “Company”), received a letter (the “Letter”) from Myra K. Young and James McRitchie (the “Proponents”) indicating that a stockholder proposal was purportedly being submitted to the Company for inclusion in the proxy materials for the Company’s 2020 annual meeting of stockholders (the “Proxy Materials”).

The Company hereby advises the staff of the Division of Corporation Finance (the “Staff”) that it intends to exclude the purported stockholder proposal from its Proxy Materials. The Company respectfully requests confirmation that the Staff will not recommend enforcement action to the Securities and Exchange Commission (the “Commission”) if the Company excludes the purported proposal pursuant to Rule 14a-8(e) because no stockholder proposal was actually received by the Company prior to the Company’s December 21, 2019 deadline for submitting such proposals.

By copy of this letter, we are advising the Proponents of the Company’s intention to exclude the purported proposal. In accordance with Rule 14a-8(j) and Staff Legal Bulletin No. 14D, we are submitting by electronic mail (i) this letter, which sets forth our reasons for excluding the purported proposal; and (ii) the Proponents’ correspondence submitting the Letter.

Pursuant to Rule 14a-8(j), we are submitting this letter not less than 80 days before the Company intends to file its Proxy Materials.
I. BACKGROUND

The Proponents sent the Letter to the Company via facsimile on December 15, 2019, stating that they intended to submit a stockholder proposal for inclusion in the Company’s Proxy Materials. However, the Letter did not actually include a proposal or supporting statement. The Letter did indicate that the purported proposal was also being submitted by email, but as discussed below, no such email was ever received.

In both cases, the Proponents did not follow the guidance issued by the Staff in Staff Legal Bulletin No. 14 and Staff Legal Bulletin No. 14C, which urges a proponent to ensure that she or he has obtained the correct company contact information prior to submission of a proposal, placing the burden on proponents to ensure proper submission of proposals. Instead, the Proponents sent the Letter via facsimile to the Company without including a stockholder proposal or supporting statement with the Letter. The Proponents may have also attempted to email the stockholder proposal to three Company employees, none of whom received the email for the reasons described below. As a result, the stockholder proposal referenced in the Letter was not timely received by the Company at its principal executive offices, as required by the Company’s 2019 Proxy Statement.

The Proponents sent the Letter via facsimile to the Company’s principal executive office on December 15, 2019 (the “Fax”). The Fax received by the Company consisted of two pages. The first page was the Letter, indicating that the Proponents intended to submit a stockholder proposal for inclusion in the Proxy Materials. The second page of the Fax consisted of an error message, which read in part, “We’re sorry, but your incoming fax may be incomplete. Please call the sender to verify your fax or to request a re-send.” A copy of the Fax is attached hereto as Exhibit A. No proposal was received by the Company in the Fax.

The Letter indicates that the Proponents intended to submit the Letter and a proposal by email to three Company employees: Adam C. Vandervoort, Chief Legal Officer and Secretary of the Company; Jisoo Suh, former Director of Investor Relations at the Company; and Courtney McLeod, the Company’s contact for media inquiries. However, the email address for Mr. Vandervoort stated in the Letter was misspelled; Ms. Suh has not been employed by the Company since August of 2017; and Ms. McLeod never received any such email from the Proponents.

As clearly set forth in its 2019 proxy statement, the Company’s deadline for receiving stockholder proposals for inclusion in its Proxy Materials was December 21, 2019. As of the date hereof, the Company has not received the stockholder proposal referenced in the Letter via email, facsimile or otherwise.

II. BASIS FOR EXCLUSION

The Company respectfully requests that the Staff concur with its view that the purported proposal may be excluded from the Proxy Materials pursuant to Rule 14a-8(e) because the Company did not receive a proposal from the Proponents at its principal executive offices before the deadline for submitting stockholder proposals to the Company.
A. The Proponents Failed to Follow Staff Guidance for Submission of the Proposal

Staff Legal Bulletin No. 14 emphasizes that “[t]o avoid exclusion on the basis of untimeliness, a shareholder should submit his or her proposal well in advance of the deadline....” The Staff has further stated that the proposal must be received at the company’s principal executive offices, explaining that “[s]hareholders can find this address in the company’s proxy statement. If a shareholder sends a proposal to any other location, even if it is to an agent of the company or to another company location, this would not satisfy the requirement.”

More recently, the Staff issued Staff Legal Bulletin No. 14C, which provides specific guidance for stockholders submitting proposals via facsimile. This guidance provides that if a stockholder intends to submit a proposal by facsimile, the proponent “should ensure that he or she has obtained the correct facsimile number for making such submissions.” The Staff encourages stockholders to contact the company to obtain the correct facsimile number for submitting proposals because if “the facsimile number is incorrect, the shareholder proponent’s proposal may be subject to exclusion on the basis that the shareholder proponent failed to submit the proposal or response in a timely manner.”

The Proponents did not follow the Staff guidance set forth above. Consistent with the guidance in Staff Legal Bulletin No. 14C, the Proponents should have contacted the Company to obtain the appropriate email addresses prior to submission of the purported proposal and should have ensured that the facsimile, in its totality, was properly submitted and received by the Company. Further, regardless of the Proponents’ failure to contact the Company in advance of submission to verify the email addresses, they should have followed up with the Company in response to the error message received from the facsimile to ensure that the purported proposal was properly submitted and received in advance of the deadline. Because of the Proponents’ failure to follow the Staff guidance as issued in Staff Legal Bulletin 14C, the purported proposal was not timely submitted and may be properly excluded from the Proxy Materials.

B. The Staff Has Previously Concurred in the Exclusion of a Stockholder Proposal Where the Correspondence From the Proponent Failed to Contain the Text of the Proposal

The Staff has also clearly indicated that a company may exclude a proposal from its proxy materials if it receives mere notice of a proposal prior to its deadline, but does not receive the actual proposal. In *IBP, inc.*, IBP received a facsimile from a proponent with a cover page indicating that a proposal was being submitted, but no proposal or supporting statement was actually included in the facsimile. After IBP’s deadline for submission of proposals, IBP received a written copy of the actual proposal. IBP argued that it should be able to exclude both the purported proposal sent via facsimile and the proposal received by mail because neither was received prior to its proposal deadline. The Staff concurred in the exclusion of the proposals under Rule 14a-8(e)(2), noting that “[t]he company first received an entire proposal after its ... deadline.” *IBP, inc.* (avail. Jan. 19, 2000).
Similarly, in *Duke Energy Corp.* (2001) and *Duke Energy Corp.* (2004), the Staff concurred in the exclusion of purported stockholder proposals where the company never actually received the supposed proposals. In *Duke Energy* (2001), Duke received a letter by facsimile indicating that a proponent was submitting a stockholder proposal. The letter stated that the proposal was “enclosed” and stated the topic it related to; however, the letter did not include the referenced proposal. *Duke Energy Corp.* (avail. Feb. 9, 2001). In *Duke Energy* (2004), Duke Energy again received a letter by U.S. mail indicating that a proponent was submitting a proposal; however, the U.S. mail letter again did not include the referenced proposal or any other enclosure or attachment. *Duke Energy Corp.* (avail. Feb. 19, 2004). In both cases, the Staff noted that “although the company received notice of the proponent’s intent to submit a proposal, the company did not receive the actual proposal” and permitted exclusion of the purported proposals under Rule 14a-8(e)(2).

Similar to all three examples discussed above, in this instance the Proponents merely notified the Company of their intent to submit a proposal, but did not deliver an actual proposal or supporting statement prior to the Company’s deadline or at all. Since an intent to submit a proposal is not the same as an actual, timely submission of a proposal, no proposal was submitted to the Company before its deadline. Therefore, just as in the examples noted above, the instant purported proposal should also be omitted as untimely.

**C. The Staff Has Previously Concurred in the Exclusion of a Stockholder Proposal When the Proposal Was Submitted to the Incorrect Email Address**

In *Sprint Corp.*, Sprint argued that it had not received the proposal prior to its deadline as set forth in its proxy statement because the proponent submitted the proposal via email to a company employee who no longer worked for the company and to an employee who was not an attorney. The Staff agreed, granting Sprint no-action relief under Rule 14a-8(e)(2). *Sprint Corp.* (avail. Apr. 3, 2018). Similarly, in *Ellie Mae Inc.*, the Staff granted no-action under Rule 14a-8(e)(2) and concurred with the exclusion of a proposal sent prior to the submission deadline to the email addresses of the company’s former corporate secretary and the company’s investor relations department, as well as to a facsimile number that was not in the company’s principal executive offices. *Ellie Mae Inc.* (avail. Mar 12, 2015). In *Alcoa, Inc.*, the Staff granted no-action under Rule 14a-8(e)(2) where the company’s Secretary did not receive the proposal until after the deadline for submitting proposals because the proponent submitted a stockholder proposal by email to the company’s investor relations department and by facsimile to a number that was not in the company’s principal executive offices. *Alcoa, Inc.* (avail. Jan. 12, 2009). And in *Xerox*, the Staff granted no-action under Rule 14a-8(e)(2) where a proponent submitted a proposal via facsimile to the company’s treasury department, rather than the company’s corporate secretary’s office, and because no one was monitoring the fax machine in the treasury department for stockholder proposals, the proposal was lost and never made it to the corporate secretary’s office. *Xerox Corp.* (avail. May 2, 2005).

It is unknown whether the Proponents even attempted to email the purported proposal to the Company employees noted in the Letter. Even if the Proponents did send the emails, the purported proposal may be excluded because, as in the examples discussed above, the Proponents submitted the purported proposal to an email address that was incorrect, to an email...
address of a person no longer with the company, and to an employee who is not an attorney and who did not receive an email from the Proponent. Thus, the Company did not receive a proposal from the Proponents.

Because the Proponents failed to follow the Staff’s guidance for submission of proposals by other means, and because the purported proposal was not received at the Company’s principal executive offices before the deadline for submitting stockholder proposals, the purported proposal may be properly excluded from the Proxy Materials.

D. The Staff Has Strictly Constrained the Rule 14a-8 Deadline

Under Rule 14a-8(e)(1), a stockholder proposal submitted with respect to a company’s regularly scheduled annual meeting must be received at the company’s principal executive offices by the deadline set forth in the prior year’s proxy statement. Pursuant to Rule 14a-8(e)(2), the deadline is calculated as not less than 120 calendar days before the date of the company’s proxy statement released to stockholders in connection with the previous year’s annual meeting.

The deadline for submission of stockholder proposals for the Company’s 2020 annual meeting of stockholders pursuant to Rule 14a-8 was set forth on page 57 of the Company’s proxy statement (attached hereto as Exhibit B), filed with the SEC and mailed to stockholders on April 19, 2019. As shown on page 57, the proxy statement clearly stated that such proposals must be “sent to our principal executive offices and must be received not less than 120 calendar days prior to April 19, 2020. Accordingly, stockholder proposals must be received no later than December 21, 2019.”

The December 21, 2019 deadline was calculated in accordance with Rule 14a-8(e)(2), as it is 120 days before April 19, 2020, the anniversary of the release date of the Company’s proxy statement in connection with the 2019 annual meeting of stockholders. Rule 14a-8(e)(2) provides that the 120 calendar day deadline does not apply if the current year’s annual meeting has been changed by more than 30 days from the date of the prior year’s meeting. That is not applicable here, as the Company intends to hold its 2020 annual meeting of stockholders on or about May 28, 2020, which is within 30 days of May 30, 2020, the anniversary of the 2019 annual meeting of stockholders.

Rule 14a-8(f) permits a company to exclude a stockholder proposal that does not comply with the rule’s procedural requirements, including if a proponent “fail[s] to submit a proposal by the company’s properly determined deadline.” The Company did not receive a stockholder proposal from the Proponents at its principal executive offices before the December 21, 2019 deadline. Accordingly, the purported stockholder proposal was not timely submitted.

The Staff has on numerous occasions strictly construed the Rule 14a-8 deadline, permitting companies to exclude from proxy materials those stockholder proposals received at companies’ principal executive offices after the submission deadline. See, e.g., Applied Materials, Inc. (avail. Nov. 20, 2014) (concurring with the exclusion of a proposal received one day after the submission deadline); BioMarin Pharmaceutical Inc. (avail. Mar. 14, 2014)
(concurring with the exclusion of a proposal received five days after the submission deadline); PepsiCo, Inc. (avail. Jan. 3, 2014) (concurring with the exclusion of a proposal received three days after the submission deadline); General Electric Company (avail. Jan. 24, 2013) (concurring with the exclusion of a proposal received one day after the submission deadline).

Rule 14a-8(f) states that “[a] company need not provide [the proponent with] such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company’s properly determined deadline.” Because the failure to timely submit a stockholder proposal is a deficiency that cannot be remedied, the Company is not required to provide the Proponents with the 14-day notice and an opportunity to cure under Rule 14a-8(f) in order to exclude the purported proposal under Rule 14a-8(e).

The Company therefore requests that the Staff concur that the Proposal may properly be excluded from the Proxy Materials because it was not properly submitted to the Company’s principal executive offices within the time frame required under Rule 14a-8(e).

III. CONCLUSION

It is not clear whether the Company is even required to submit a request to the Staff to exclude the purported stockholder proposal since, as of the date hereof, there is no stockholder proposal to include in the Company’s Proxy Materials or to exclude as being submitted after the deadline. Nevertheless, based upon the foregoing analysis, the Company respectfully requests confirmation that the Staff will not recommend enforcement action to the Commission if it excludes what purports to be a stockholder proposal from the Company’s Proxy Materials pursuant to Rule 14a-8(e) because such proposal was not received at the Company’s principal executive offices before the deadline for submitting stockholder proposals.

* * * *
If the Staff does not concur with the Company’s position, we would appreciate an opportunity to confer with the Staff concerning this matter prior to the determination of the Staff’s final position. In addition, the Company requests that the Proponents copy the undersigned on any response they may choose to make to the Staff, pursuant to Rule 14a-8(k).

Please contact the undersigned to discuss any questions you may have regarding this matter.

Very truly yours,

Brian D. Miller
Of LATHAM & WATKINS LLP

Enclosures

cc: Myra K. Young
    James McRitchie
    John Chevedden
    Samantha Macina, Associate Director & Corporate Counsel - Securities and Governance
    Teladoc Health, Inc.
Exhibit A

Facsimile from Myra K. Young and James McRitchie Received on December 15, 2019
Mr. Adam C. Vandervoort  
Chief Legal Officer and Secretary  
2 Manhattanville Road, Suite 203  
Purchase, New York 10577  
Via: AVandervoot@teladoc  
Telephone: (203) 635-2002  
Fax: (203) 702-5243  

Dear Corporate Secretary:

We are pleased to be shareholders in Teladoc, Inc (TDOC) and appreciate the company's leadership. However, we also believe our company has further unrealized potential that can be unlocked through low or no cost measures by making our corporate governance more competitive.

We are submitting a shareholder proposal on Elect Directors by Majority Vote for a vote at the next annual shareholder meeting. The proposal meets all Rule 14a-8 requirements, including the continuous ownership of the required stock value for over a year. We pledge to continue to hold stock until after the date of the next shareholder meeting. Our submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

This letter confirms that we are delegating John Chevedden to act as our agent regarding this Rule 14a-8 proposal, including its submission, negotiations and/or modification, and presentation at the forthcoming shareholder meeting. Please direct all future communications regarding our rule 14a-8 proposal to John Chevedden to facilitate prompt communication. Please identify us as the proponent of the proposal exclusively.

Your consideration and the consideration of the Board of Directors is appreciated in responding to this proposal. Please acknowledge receipt of our proposal promptly by email.

Sincerely,

James McRitchie  

Myra K. Young  

December 14, 2019  
Date  

December 14, 2019  
Date  

cc: Jisoo Suh, jsuh@teladoc.com  
Courtney McLeod, cmcleod@teladoc.com
We're sorry, but your incoming fax may be incomplete. Please call the sender to verify your fax or to request a re-send.

Your fax may be incomplete because one or more of the following has occurred:

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You will not be charged for this additional page.
Exhibit B

Page 57 of the Company’s 2019 Proxy Statement
documents filed with the SEC

• Audit-Related Fees. Consist of aggregate fees for accounting consultations and other services that were reasonably related to the performance of audits or reviews of our consolidated financial statements and were not reported above under "Audit Fees"

• Tax Fees. Consist of aggregate fees for tax compliance, tax advice and tax planning services including the review and preparation of our federal and state income tax returns

• All Other Fees. Consist of aggregate fees billed for products and services provided by the independent registered public accounting firm other than those disclosed above

In connection with our initial public offering, we adopted a policy under which the Audit Committee must pre-approve all audit and permissible non-audit services to be provided by the independent registered public accounting firm. These services may include audit services, audit-related services, tax services and other services. Pre-approval would generally be requested annually, with any pre-approval detailed as to the particular service, which must be classified in one of the four categories of services listed above. The Audit Committee may also, on a case-by-case basis, pre-approve particular services that are not contained in the annual pre-approval request. In connection with this pre-approval policy, the Audit Committee also considers whether the categories of pre-approved services are consistent with the rules on accountant independence of the SEC and the Public Company Accounting Oversight Board.

In addition, in the event time constraints require pre-approval prior to the Audit Committee's next scheduled meeting, the audit committee has authorized its chairman to pre-approve services. Engagements so pre-approved are to be reported to the Audit Committee at its next scheduled meeting.

The Audit Committee pre-approved all services performed since our pre-approval policy was adopted.

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OTHER MATTERS

Our Bylaws require stockholders to give advance notice of any proposal intended to be presented at the Annual Meeting. The deadline for this notice has passed and we have not received any such notice that was not voluntarily withdrawn. If any other matter properly comes before the stockholders for a vote at the meeting, however, the proxy holders will vote your shares in accordance with their best judgment.

ADDITIONAL INFORMATION

Interests of Certain Persons in Matters to Be Acted On

No director or executive officer of Teladoc Health who has served in such capacity since January 1, 2018, or any associate of any such director or officer, to the knowledge of the executive officers of Teladoc Health, has any material interest, direct or indirect, through security holdings or otherwise, in any matter proposed to be acted on at the Annual Meeting, which is not shared by all other stockholders or as is otherwise described in this proxy statement.

Proxy Solicitation

Teladoc Health will bear all costs of this proxy solicitation. In addition to soliciting proxies by this mailing, Teladoc Health expects that its directors, officers and regularly engaged employees may solicit proxies personally or by mail, telephone, facsimile or other electronic means, for which solicitation they will not receive any additional compensation. Teladoc Health will reimburse brokerage firms, custodians, fiduciaries and other nominees for their out-of-pocket expenses in forwarding solicitation materials to beneficial owners upon our request.

Procedures for Submitting Stockholder Proposals

Stockholder proposals intended for inclusion in next year's proxy statement under Rule 14a-8 of the Exchange Act should be sent to our principal executive offices and must be received not less than 120 calendar days prior to April 19, 2020. Accordingly, stockholder proposals must be received no later than December 21, 2019. As the rules of the SEC make clear, simply submitting a proposal does not guarantee that it will be included.

Additionally, our Bylaws provide that stockholders desiring to nominate a director, including director nominees pursuant to our proxy access bylaws or special meeting, or bring any other business before the stockholders at an annual meeting must notify our corporate secretary of this proposal in writing not later than 90 days nor earlier than 120 days prior to the first anniversary of the preceding year's annual meeting of stockholders. Accordingly, for our 2020 annual meeting, any notification must be made no earlier than January 31, 2020, and no later than March 1, 2020. The stockholder must be a stockholder of record both at the time of giving notice and at the time of the annual meeting. The fact that the Company may not insist upon compliance with these requirements should not be construed as a waiver of our right to do so at any time in the future.

By order of the Board of Directors,

Adam C. Vandervoort
Chief Legal Officer and Secretary

TELADOC HEALTH, INC.
ATTN: ADAM VANDERVOORT
2 MANHATTANVILLE ROAD
PURCHASE, NY 10577

VOTE BY INTERNET: Go to WWW.PROXYVOTE.COM
Use the Internet or telephone for convenient voting of shares. Go to WWW.PROXYVOTE.COM and follow the instructions to obtain your voting instruction form.
During the meeting: Go to WWW.VIRTUALSHAREHOLDERMEETING.COM/TEP2019
You may attend the meeting via the webcast at WWW.VIRTUALSHAREHOLDERMEETING.COM/TEP2019
If you vote by Internet, you must have your share record number available as instructed on the confirmation of vote.

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