

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 92734 / August 23, 2021

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4243 / August 23, 2021

Admin. Proc. File No. 3-20394

In the Matter of PAUL L. CHANCEY, JR., CPA

PROTECTIVE ORDER

On July 13, 2021, the Securities and Exchange Commission issued an order instituting an administrative proceeding (“OIP”) against Paul L. Chancey, Jr., CPA (“Respondent”), pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.¹ On August 16, 2021, Respondent and the Division of Enforcement jointly moved for entry of a protective order concerning the use and disclosure of nonpublic sensitive information that Respondent and the Division will disclose in connection with discovery in this proceeding. The parties represented that they had stipulated to terms and submitted a proposed order with their motion.

Commission Rule of Practice 322 provides that a party may seek a protective order limiting disclosure of a document or testimony that contains confidential information.² We will grant such a motion “only upon a finding that the harm resulting from disclosure would outweigh the benefits of disclosure.”³ Because the parties represent that portions of the Division’s investigative file to be produced to Respondent, as well as other documents to be produced in

¹ *Paul L. Chancey, Jr., CPA*, Exchange Act Release No. 92378, 2021 WL 2953721 (July 13, 2021).

² 17 C.F.R. § 201.322(a).

³ 17 C.F.R. § 201.322(b).

discovery, contain personal identifying information or reflect proprietary sales practices or contain business or confidential information, we grant the parties' motion for a protective order.⁴

Accordingly, it is ORDERED, based on the parties' stipulated language, but with some minor revisions to that stipulated language throughout, and with alternate redaction procedures from the parties' proposed procedures, that:

1. Persons subject to this order ("Protective Order") will include, without limitation, (i) Respondent and the Division (together, the "Stipulating Parties"), as well as (ii) the Stipulating Parties' representatives, agents, counsel, experts, and consultants, (iii) any third parties providing discovery in this proceeding ("Third Parties"), and (iv) all other interested persons with actual or constructive notice of this order.

2. Persons subject to this order may be subject to sanctions under Rule of Practice 180, 17 C.F.R. § 201.180, for any breach of the terms of this Protective Order.

3. Counsel for the Stipulating Parties or any Third Party may designate any document or other material or information (including interrogatory responses or admissions), regardless of who produced the material, or any deposition testimony given in this proceeding by or on behalf of a Stipulating Party or Third Party (including any transcripts or video recordings thereof and exhibits used in the deposition), as "Confidential" if counsel determines, in good faith, that such material constitutes technical know-how; confidential research, development or commercial information; purchase and/or sales data; proprietary commercial, financial, technical, research, development, or business information; non-public contracts or agreements; or any other confidential, private, or proprietary information such that the designation of that material as confidential is necessary to protect the interests of the client or other third parties such as MiMedx, and its former or current employees, auditors, accountants, and lawyers. Information, documents, and deposition testimony designated by a Stipulating Party or Third Party as confidential will be labeled "CONFIDENTIAL. PRODUCED PURSUANT TO PROTECTIVE ORDER." Information or documents that have been designated as Confidential under this order may be referred to collectively as "Confidential Information."

4. Regardless of the designation and label provided by the producing Stipulating or Third Party, no information, document, or deposition testimony shall qualify as Confidential Information if that document already has been introduced not under seal in any public proceeding, including but not limited to *U.S. v. Parker H. Petit and William Taylor*, No. 19-cr-850 (S.D.N.Y.) and *SEC v. MiMedx, et al.*, No. 1:19-cv-10927 (S.D.N.Y.).

⁴ See, e.g., *Christopher E. Knauth, CPA*, Exchange Act Release No. 92482, , 2021 WL 3128191 (July 23, 2021) (granting request for a protective order against the disclosure of personal identifiable information and preventing use of such information for business or commercial purposes); *LBB & Assocs. Ltd.*, Exchange Act Release No. 85569, 2019 WL 1531832 (Apr. 9, 2019) (same).

5. Unless ordered by the Commission, or otherwise provided for herein, all documents and other materials disclosed in this proceeding (including, but not limited to Confidential Information), will be held and used by the person receiving such information solely for use in connection with this proceeding. However, nothing in this Protective Order shall prevent the Division from complying with its obligations under law concerning disclosure of documents, including but not limited to its published Routine Uses of Information in Forms 1661 and 1662,⁵ the Freedom of Information Act, 5 U.S.C. § 552 *et seq.*, and any other statutes or rules applicable to the Division, or interfere with the Division's use of information for law enforcement activities and to otherwise regulate, administer, and enforce the federal securities laws.

6. In the event a party challenges another Stipulating Party's or Third Party's Confidential designation, counsel shall make a good faith effort to resolve the dispute, and in the absence of a resolution, the challenging party may thereafter seek resolution by the Commission or by an assigned hearing officer. Nothing in this Protective Order operates as a waiver of any claim or defense in this proceeding or creates an admission by any party that Confidential Information disclosed in this case is or is not (i) confidential, (ii) privileged, (iii) discoverable, (iv) relevant, or (v) admissible in evidence. Each party specifically reserves the right to object to the use or admissibility of all Confidential Information disclosed, in accordance with applicable law and Commission rules.

7. Subject to Paragraph 5, above, information or documents designated as Confidential Information shall not be disclosed to any person, except:

- A. The Stipulating Parties and counsel of record;
- B. Employees of such counsel assigned to and assisting in this proceeding;
- C. Outside vendors or service providers (such as copy-service providers and document-management consultants) that counsel engage to assist in this proceeding;
- D. Mock jurors and related service providers that counsel engage to assist in this proceeding;
- E. As to any document, its author, its addressee, and any other person indicated on the face of the document as having received a copy;

⁵ See <https://www.sec.gov/files/sec1661.pdf> (describing principal and routine uses of information obtained other than pursuant to Commission subpoena); <https://www.sec.gov/files/sec1662.pdf> (same as to information obtained voluntarily or pursuant to Commission subpoena).

- F. Stenographers and videographers engaged to transcribe depositions the Stipulating Parties conduct in this proceeding;
- G. Consultants or experts to the extent deemed necessary by counsel to assist in this proceeding;
- H. Any person who counsel for a Stipulating Party in good faith believes may be called to testify at trial or deposition in this proceeding (as well as counsel for such person). Such persons and/or their counsel may retain Confidential Information that counsel for a Stipulating Party in good faith believes is necessary for such persons to prepare for testimony; such retention is subject to Paragraph 14, below;
- I. The Commission or an assigned hearing officer, at the hearing or as exhibits to motions;
- J. Any other person to whom the Stipulating Parties have agreed in writing disclosure may be made or to whom disclosure has been authorized by order of the Commission.

8. Subject to Paragraph 5, above, prior to disclosing or displaying Confidential Information to any person, counsel shall:

- A. inform the person of the confidential nature of the information or documents; and
- B. inform the person that the Commission has enjoined the use of the information or documents by him/her for any purpose other than in connection with this proceeding and has enjoined the disclosure of that information or documents to any other person except as permitted by this Protective Order.

9. Subject to Paragraph 5, above, Confidential Information may be displayed to and discussed with the persons identified in Paragraphs 7.D and 7.H, above, only on the condition that, prior to any such display or discussion, each such person shall be asked to sign an agreement to be bound by this Protective Order in the form attached to this Protective Order as "Model Non-Disclosure Agreement." In the event such person refuses to sign an agreement in the form of this Model Non-Disclosure Agreement, the party desiring to disclose the Confidential Information may seek appropriate relief from the Commission or from a hearing officer, if the proceeding has been assigned to a hearing officer.

10. In making any Commission filings, the Stipulating Parties may describe or attach as exhibits any documents or information produced in this matter, regardless of whether such materials are designated Confidential. Such a filing shall not constitute a violation of this

Protective Order. A filing that contains Confidential Information will be filed under the sealing and redaction procedures of Rule of Practice 322(b), 17 C.F.R. § 201.322(b).⁶

11. Any Stipulating Party who discovers that it inadvertently produced material containing Confidential Information without designating that information as Confidential may, within a reasonable time following its discovery of the inadvertent production, retroactively designate that material as Confidential Information, by providing notice of its designation in writing to all Stipulating Parties.

12. During the course of deposition testimony in this proceeding, the transcript of such deposition may be designated on the record as Confidential Information. Alternatively, within 30 days of receiving a transcript of deposition testimony taken in this proceeding, any Stipulating Party or Third Party (where applicable) providing the testimony may designate the transcript as Confidential Information by notifying all Stipulating Parties in writing that the transcript is to be designated as Confidential Information.

13. The foregoing is entirely without prejudice to the right of any party to apply to the Commission or to an assigned hearing officer for any further protective order relating to Confidential Information; or to object to the production of documents or information; or to apply to the Commission or to an assigned hearing officer for an order compelling production of documents or information; or for modification of this Protective Order; or to seek any other relief from the Commission or from an assigned hearing officer.

14. Within 60 days of the final disposition (including all appeals) of this proceeding, whichever is later, all recipients of Confidential Information must either return it, including all copies thereof, to the producing party, or destroy such material, including all copies thereof. Notwithstanding this provision, attorneys that the Stipulating Parties have specifically retained for this proceeding may retain an archival copy of all pleadings, motion papers, transcripts, expert reports, legal memoranda, correspondence, or attorney work product, even if such materials contain Confidential Information. Any such archival copies that contain or constitute Confidential Information remain subject to this Protective Order.

15. This Protective Order will survive the termination of the proceeding and will continue to be binding upon all persons to whom Confidential Information is produced or disclosed.

⁶ See also <https://www.sec.gov/efapdocs/instructions.pdf> at §§ 4.1.4, 5.2 (addressing the submission of sealed and redacted materials to the Commission's Office of the Secretary through the Electronic Filings in Administrative Proceedings (eFAP) system).

16. The Commission or an assigned hearing officer will retain jurisdiction over all persons subject to this Protective Order to the extent necessary to enforce any obligations arising hereunder or to impose sanctions for any contempt thereof.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

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MODEL NON-DISCLOSURE AGREEMENT

I, [_____ full name _____], of [_____ full address _____], declare under penalty of perjury that I have read in its entirety and understand the Protective Order that was issued in the above captioned Administrative Proceeding of the U.S. Securities and Exchange Commission.

I agree to comply with and be bound by all the terms of the Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions. I will not disclose in any manner any information or item that is subject to the Protective Order to any person or entity except in strict compliance with the provisions of the Protective Order. I will not use any information or item that is subject to the Protective Order for any purpose except in strict compliance with the terms of the Protective Order.

I further agree to submit to the Commission's jurisdiction, including to that of an assigned hearing officer, for the limited purpose of enforcing the terms of the Protective Order, even if such proceedings occur after termination of this action.

Signature: _____

Printed name: _____

Date: _____