

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6781 / December 6, 2024

Admin. Proc. File No. 3-22307

<p>In the Matter of</p> <p>EPIC CAPITAL WEALTH ADVISORS, LLC</p>
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PROTECTIVE ORDER

On November 8, 2024, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) against Epic Capital Wealth Advisors, LLC, to determine whether its pending application for registration as an investment adviser should be denied pursuant to Section 203(c)(2)(B) of the Investment Advisers Act of 1940.¹ On November 26, 2024, the Division of Enforcement filed an unopposed motion for protective order with Epic Capital’s consent. In its motion, the Division stated that the parties anticipate that documents relevant to this proceeding, including documents the Division would make available to Epic Capital for inspection and copying pursuant to Rule 230 of the Commission’s Rules of Practice, will contain confidential information. The Division also stated that the parties agree that a protective order is necessary because the harm resulting from disclosure of such confidential information would outweigh the benefits of disclosure. The Division attached a proposed protective order and stated that the parties had agreed to abide by its terms pending entry of the order.

¹ *Epic Capital Wealth Advisors, LLC*, Advisers Act Release No. 6771, 2024 WL 4723204 (Nov. 8, 2024).

On December 2, 2024, Epic Capital filed an answer to the OIP with exhibits. Epic Capital did not include a certificate of service with its filing as required by Rule of Practice 150. *See* Rule of Practice 150, 17 C.F.R. § 201.150 (generally requiring parties to serve each other with their filings); Rule of Practice 151(d), 17 C.F.R. § 201.151(d) (“Papers filed with the Commission . . . shall be accompanied by a certificate stating the name of the person or persons served, the date of service, the method of service, and the mailing address or email address to which service was made, if not made in person.”). We remind Epic Capital of this requirement and direct it to email a copy of its filing to Division counsel if it has not done so.

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 Such a motion is granted “only upon a finding that the harm resulting from disclosure would outweigh the benefits of disclosure.”³ Given the circumstances, it appears that the Division has met this standard.⁴ We thus find it appropriate to enter the proposed confidentiality order as modified below.

Accordingly, it is ORDERED that:

1. The Division of Enforcement and Epic Capital Wealth Advisors, LLC (collectively, the “Parties,” and each a “Party”) shall use Confidential Information, as defined below, solely for the purposes of this proceeding, and the related proceeding, *David M. Anthony*, Admin. Proc. File No. 3-22308, and shall take reasonable and appropriate measures to prevent unauthorized disclosure of Confidential Information, including personally identifiable information (“PII”), contained in documents produced or filed in these proceedings.
2. Confidential Information includes information that the Parties believe to be confidential as a matter of law, including, but not limited to, PII, including financial account numbers, customer names and contact information, social security numbers, driver’s license numbers, dates of birth, and any other identifying information that is linked or linkable to a specific individual and could be used to distinguish or trace individual identity. Some documents may also contain sensitive commercial, financial, and/or business information.
3. Any Party producing documents that may include Confidential Information shall identify and clearly label such documents to the receiving party as Confidential, such as by placing the word “Confidential” on the document in a manner that will not interfere with the legibility of the document, or by producing such documents accompanied by a cover letter or other communication indicating that the accompanying documents be treated as Confidential.
4. Any Party seeking to use, introduce, or quote from a document containing Confidential Information, including PII, in these proceedings, shall redact the Confidential Information, including PII, prior to such use, including in any motion, brief, exhibit, memorandum, pleading, or other submission or filing, or at any hearing in these proceedings. If the Party believes that the redacted information is necessary to the proceeding, the Party shall file unredacted documents, along with a motion for a protective order with redacted documents, in accordance with Rule of Practice 322, 17 C.F.C. § 201.322, to limit disclosure of the unredacted information.

² 17 C.F.R. § 201.322(a).

³ *Id.* § 201.322(c).

⁴ *Christopher E. Knauth, CPA*, Exchange Act Release No. 92482, 2021 WL 3128191 (July 23, 2021) (finding Rule 322 standard was satisfied because “the parties represent that the Division will produce to Respondents certain documents compiled during the Division’s investigation of Respondent . . . that contain certain sensitive personal information”).

5. Unless otherwise agreed or ordered, this Protective Order shall remain in force after entry of a final order in, or dismissal of, these proceedings.

6. Nothing in this Protective Order shall prevent any Party from disclosing Confidential Information to a court or governmental body when required to do so by statute, court order, or regulatory agency order. Nor shall this Protective Order prevent the Division or the Commission from using information obtained prior to or during these administrative proceedings in a manner consistent with the agency's rights and obligations under federal law concerning disclosure of documents, including, but limited to, the Division's published Routine Uses of Information in Forms 1661 and 1662,⁵ and the Freedom of Information Act, 5 U.S.C. § 552 *et seq.*; nor shall anything in this Protective Order interfere with the Division's or the Commission's use of information for law enforcement activities, including but not limited to sharing information with law enforcement agencies, and, for use outside of these proceedings, to otherwise regulate, administer, and/or enforce the federal securities laws.

7. This Protective Order shall be subject to modification by the Commission or a presiding hearing officer on the Commission's or the officer's own motion, on a Party's motion, or on the motion of any other person with standing.

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

Vanessa A. Countryman
Secretary

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).