Viceroy's MiMedx Greatest Hits

A thorough walkthrough of Viceroy's investigations into MiMedx

Over the past eight months, Viceroy have conducted an investigation into MiMedx Group, Inc (NASDAQ:MDXG) (**Company**). We have presented our research over the course of 20+ reports which can be on our website:

www.viceroyresearch.org

In the interest of those who have only recently begun following the story, Viceroy have decided to consolidate the major aspects of all 20+ reports into one document, organized by topic.

This is still a lengthy document however readers should be conscious that it is a combination of over 20 separate reports, which collectively is still small sample of the hoard of data Viceroy have provided to regulators.

When we began our investigation into MiMedx, we were shocked by the sheer volume, brazenness, extent, and historic precedence of the fraud being perpetrated by the Company. MiMedx management has yet to acknowledge any wrongdoing, remaining unrepentant despite the existence of several federal investigations into the company.

We reiterate our opinion that due to the overwhelming nature and amount of evidence against the company we believe MiMedx is a robust fraud, entirely uninvestable, and worth $0.00.

We encourage any persons with further evidence of fraud within MiMedx's operations to lodge an anonymous report with regulators through the following channel.

https://www.sec.gov/whistleblower/submit-a-tip

Alternatively, Viceroy are happy to take the heat on publishing more evidence of malpractice at MiMedx, which we will treat with the utmost level of confidentiality. You can reach us at viceroyresearch@gmail.com.

Further reading on MiMedx's criminal activity can also be found on:

www.petiteparkerthebarker.com

www.aureliusvalue.com

Important Disclaimer – Please read before continuing

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Contents

1. Ongoing federal investigations

Viceroy submitted several Freedom of Information Act ("FOIA") requests to several government departments during the course of our due diligence process. In the normal course of business, FOIA requests are answered with the relevant documents. In some instances, the requested information is withheld, in which case the justification is disclosed.

SEC investigation

Viceroy understands that MiMedx was the subject of a Securities and Exchange Commission ("SEC") investigation **before** the release of our reports. This was corroborated by a release by the Capital Forum showing that a FOIA request was withheld in a manner suggesting the company to be the subject of an SEC investigation and enforcement process.

> We are withholding records that may be responsive to your request under 5 U.S.C. § 552(b)(7)(A), 17 CFR § 200.80(b)(7)(i). This exemption protects from disclosure records compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement activities. Since Exemption 7(A) protects the records from disclosure, we have not determined if other exemptions apply. Therefore, we reserve the right to assert other exemptions when Exemption 7(A) no longer applies.

Figure 1 Extract from SEC response to FOIA request

A FOIA request made by Viceroy regarding MiMedx was withheld under 5 U.S. Code § 552(b)(7)(A). This exemption to applies to documentation that could reasonable expected to interfere with enforcement proceedings.

> *5 U.S. Code § 552 - Public information; agency rules, opinions, orders, records, and proceedings*
>
> ***(a)*** *Each agency shall make available to the public information as follows: […]*
> ***(b)*** ***This section does not apply to matters that are—***
> *(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A)* ***could reasonably be expected to interfere with enforcement proceedings***

Figure 2 Extract from 5 U.S. Code § 552[1]

A day after the release of Viceroy's first report, MiMedx confirmed it was complying with an SEC subpoena, which it had received over a month prior.

> would include information from the investigation conducted by the Board of Directors and others. We were in the process of taking the same proactive approach we took with the Department of Veterans Affairs (VA) as reported in our previous press release dated September 7, 2017. The Company then received a subpoena from the SEC that appears to relate to the former employees' allegations, and primarily is related to the matters that were the subject of the Company's previously disclosed internal investigation."

Figure 3 Extract from MiMedx PR Newswire dated September 21, 2017[2]

The company claimed it was unaware as to the motivation of the subpoena but nonetheless failed to inform investors through a formal 8-K.

[1] https://www.law.cornell.edu/uscode/text/5/552
[2] https://www.prnewswire.com/news-releases/mimedx-provides-information-on-its-interaction-with-the-sec-300523565.html

VA investigation

FOIA requests to the Department of Veteran's Affairs ("VA") have also been withheld. Below is an extract from the response.

> The records responsive to your request are protected from disclosure. The information is withheld in full because it is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(7)(A). This provision concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to interfere with enforcement proceedings.

Figure 4 Extract from VA response to FOIA request

Accordingly, we believe MiMedx to be also under investigation by the Department of Veteran's Affairs.

DOJ investigation

FOIA requests to the Department of Justice ("DOJ") were withheld. Below is an extract from the response.

> My review of the documents revealed that they contained information that falls within the disclosure protections of FOIA Exemption 7, 5 U.S.C. § 552(b)(7)(A). Exemption 7(A), permits VA to withhold a document or information in a document if the Agency compiled the document for law enforcement records or information could reasonably be expected to interfere with enforcement proceedings. Stated another way, VA may withhold information under exemption 7(A) where there is a reasonable likelihood that disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requester, could interfere with currently ongoing enforcement proceedings. This exemption applies to information not initially obtained or generated for law enforcement purposes but that qualify under Exemption 7 as a record compiled for law enforcement purposes if it is subsequently recompiled into a protected law enforcement record.

Figure 5 Extract from VA response to FOIA request

Accordingly, we believe MiMedx to be under investigation by the Department of Justice.

Running Indictments

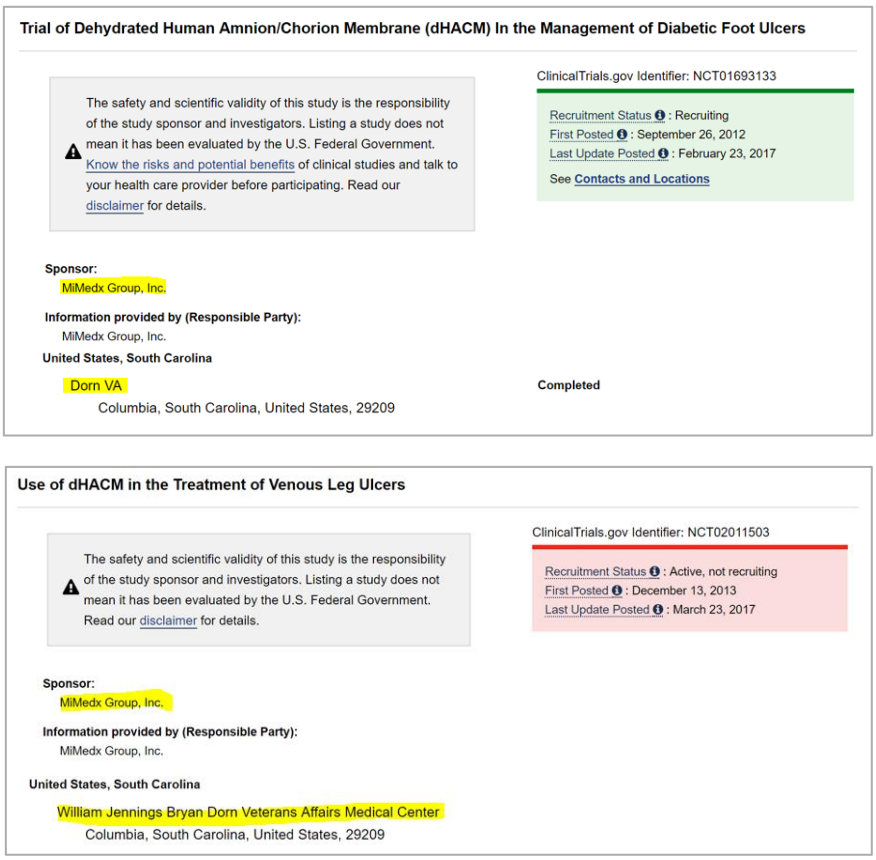
On May 8, 2018, two doctors and one nurse practitioner were indicted by Grand Jury for healthcare fraud, specifically involving the use of MiMedx products. Dr Marcella Dolores Farrer, Dr Carol Colon Guardiola and Donna Becker were charged with receiving benefits from MiMedx in exchange for the "excessive" use and promotion of MiMedx products.

The indicted VA practitioners operated out of a South Carolina VA facility: the William Jennings Bryant Dorn VA Medical Center ("Dorn VAMC"). Farrer and Becker had previously spoke for MiMedx, specifically on the efficacy of MiMedx products.

> The workshop to be hosted by MiMedx is entitled *Surgical and Wound Care Applications of EpiFix® and AmnioFix® dehydrated Human Amnion/Chorion Membrane (dHACM) allografts.* It will be a hands-on workshop for podiatrists and residents to learn more about the clinical applications and science behind the Company's products. Chester Nava, DPM ; Dolores Farrer, DPM; Donna Becker, MSN, ACNP-BC; Laura Heath, DPM (Resident); and Devin Bland, DPM (Resident) will present and detail the mechanisms of action of PURION® Processed dHACM allografts and applications for wound healing. In these sessions, the speakers will also review surgical applications of dHACM allografts for varying podiatric procedures, and participants will be able to have hands-on experience with the allografts.

Figure 6 Extract from MiMedx PR Newswire release "Thirteen Poster Abstracts Chronicling The Clinical Use, Cost Effectiveness And Accelerated Healing Results of MiMedx Products to be Presented by VA Physicians at Desert Foot Conference" dated November 18, 2014

Further at least two of MiMedx's clinical trials were or are conducted in part at the Dorn VAMC:



Trial of Dehydrated Human Amnion/Chorion Membrane (dHACM) In the Management of Diabetic Foot Ulcers

The safety and scientific validity of this study is the responsibility of the study sponsor and investigators. Listing a study does not mean it has been evaluated by the U.S. Federal Government. Know the risks and potential benefits of clinical studies and talk to your health care provider before participating. Read our disclaimer for details.

ClinicalTrials.gov Identifier: NCT01693133

Recruitment Status : Recruiting
First Posted : September 26, 2012
Last Update Posted : February 23, 2017
See Contacts and Locations

Sponsor:
MiMedx Group, Inc.

Information provided by (Responsible Party):
MiMedx Group, Inc.

United States, South Carolina

Dorn VA
Columbia, South Carolina, United States, 29209

Completed

Use of dHACM in the Treatment of Venous Leg Ulcers

The safety and scientific validity of this study is the responsibility of the study sponsor and investigators. Listing a study does not mean it has been evaluated by the U.S. Federal Government. Read our disclaimer for details.

ClinicalTrials.gov Identifier: NCT02011503

Recruitment Status : Active, not recruiting
First Posted : December 13, 2013
Last Update Posted : March 23, 2017

Sponsor:
MiMedx Group, Inc.

Information provided by (Responsible Party):
MiMedx Group, Inc.

United States, South Carolina

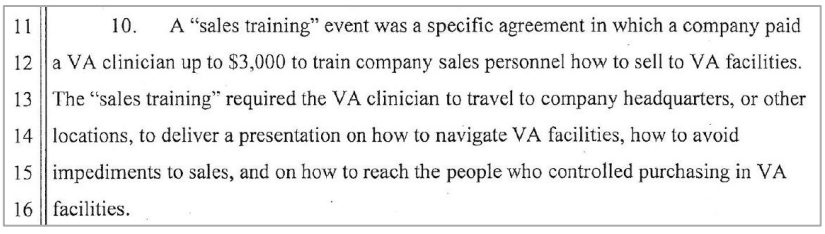
William Jennings Bryan Dorn Veterans Affairs Medical Center
Columbia, South Carolina, United States, 29209

Figures 7 & 8 Composite extracts from clinicaltrials.gov[3,4]

We do not believe the FDA considers bribery of physicians at clinical trial sites as best practice.

Viceroy believes these indictments, at a minimum, have eliminated any chance of MiMedx products progressing through to further trials.

Former employees have informed Viceroy that this practice of essentially bribing doctors and other medical staff is widespread at MiMedx. Given the historical precedent set by Advanced BioHealing staff, many of which are now MiMedx employees, we believe further indictments are to come.



10. A "sales training" event was a specific agreement in which a company paid a VA clinician up to $3,000 to train company sales personnel how to sell to VA facilities. The "sales training" required the VA clinician to travel to company headquarters, or other locations, to deliver a presentation on how to navigate VA facilities, how to avoid impediments to sales, and on how to reach the people who controlled purchasing in VA facilities.

Figure 9 United States of America v. Todd Clawson [5]

[3] https://clinicaltrials.gov/ct2/show/study/NCT01693133#contacts
[4] https://clinicaltrials.gov/ct2/show/study/NCT02011503
[5] Case 2:16-cr-00075-RSL

The events that unfolded at Advanced BioHealing are almost the same as those currently playing out at MiMedx and are addressed in Section 4.

2. Channel Stuffing

Channel stuffing is the act of inflating sales and earnings figures by deliberately sending more products through the distribution channel than can be used. Generally, the product is then funneled back to the company in the next quarter. Viceroy does not believe it is an exaggeration to say that channel-stuffing is a key component of MiMedx's operations.

The company has used several methods to stuff the channel and fraudulently induce sales including:

1. Assisting and coordinating the creation of physician-owned distributors who can hold stock at the end of quarter.
2. Assisting and coordinating the creation of employee-owned distributors who can hold stock at the end of quarter.
3. Placing unordered products on commercial and federal facility shelves and calming it as a sale.
4. Sending unordered products to commercial and federal facilities.
5. Instructing physicians on how to manipulate reimbursement systems to increase reimbursements from MiMedx products.

Points 1 and 2 are discussed in this section, while points 3, 4 and 5 are discussed in Section 3 below.

Channel stuffing at MiMedx was first brought to light in court documents regarding the company's legal actions against former employees and whistleblowers Jess Kruchoski and Luke Tornquist. The severity, frequency and the company's attitude to these activities has since been corroborated by other whistleblowers and further research.

This arrangement was facilitated previously through MiMedx distributor AvKare and later through Physician- and employee-owned distributors. Following our first report several former MiMedx employees came forward with evidence of channel-stuffing practices: these were passed on the SEC.

Figure 10 Photo of MiMedx products used channel stuffed at VA facility[6]

[6] *Note: We have blurred serial numbers, barcodes, and expiry dates to avoid identification of former employees by MiMedx.*

Name	Item Number	Number	Unit price	Total
EpiFix 7 x 7	GS-5770	22	$ 6,685.00	$ 147,070.00
Unknown	Unknown	unknown	unknown	$ 35,000.00
				$ 182,070.00

Viceroy's enquiries to the VA facility specified by the above image's EXIF data confirmed that at any one time they would expect to have only US$20,000 worth of MiMedx products on hand. The image above represents almost 10 times that amount.

Employee Owned Distributors

SLR Consulting: A Jerry Morrison/MiMedx Production

Former MiMedx employee Jerry Morrison acted as President and CEO of Texas company SLR Medical Consulting LLC ("SLR") during his time at MiMedx. SLR was named in the Kruchoski whistleblower statement as a vehicle for the company's channel-stuffing activities.

72. SLR Medical Consulting is a medical distributor that also had a stock and bill arrangement with MiMedx. Upon information and belief, MiMedx entered into an agreement with SLR Medical Consulting whereby SLR Medical Consulting would make end of the quarter order of MiMedx products at MiMedx's request on highly favorable financing terms.

73. In order to facilitate the storage of the excess orders, MiMedx provided SLR Consulting with freezers to store the product. On information and belief, the product was stored in the residence of a former MiMedx representative that had gone to work for SLR Consulting. The MiMedx account representative for SLR Consulting was the MiMedx Vice President of Sales, Mike Carlton, and that account was treated as a house account at MiMedx.

74. As of June 2016, SLR Consulting carried a 60 day past due balance of over $3 million with MiMedx. Only one MiMedx account carried a higher past-due balance at the time, and that account was also a "house account" directly under Mike Carlton's control.

CERTIFIED COPY

Figure 11 Extract from MiMedx v. Kruchoski [7]

MiMedx 2016 sales documents obtained by Viceroy research showed clearly that two entities under the names "SLR Distributor" and SLR Medical Consulting LLC were by far the largest accounts.

	Q1 ORTHO	Q2 ORTHO	Q2/Q1 GROWTH	Q3 ORTHO	Q3/Q2 GROWTH	Q4 QTD ACTUAL	Q4/Q3 GROWTH
ORTHO TOTAL	**$ 1,173,642**	**$ 2,581,291**	**120%**	**$ 3,105,279**	**20%**	**$ 4,320,577**	**39%**
FRANK BRALY	$ 136,757	$ 1,470,258	975%	$ 1,754,145	19%	$ 2,235,103	27%
SLR DISTRIBUTOR		*$ 685,958*		*$ 822,963*	20%	*$ 988,390*	20%
SLR MEDICAL CONSUTLING, LLC		*$ 119,314*		*$ 140,143*	17%	*$ 181,669*	30%
TODD MARSHALL	$ 207,791	$ 216,257	4%	$ 250,221	16%	$ 396,168	58%
SLR DISTRIBUTOR						*$ 17,125*	

Figure 12 Extract from MiMedx sales document

Frank Braly

StreamLogix

StreamLogix, LLC is a company owned by now-former MiMedx employee Frank Braly. SpineLogix, LLC is a co-owner of StreamLogix LLC. SpineLogix operates a sales platform on which it sells only a large variety of MiMedx products. Note that the below screenshot was take on May 4, 2018.

[7] Case No: 50-2016-CA-031806

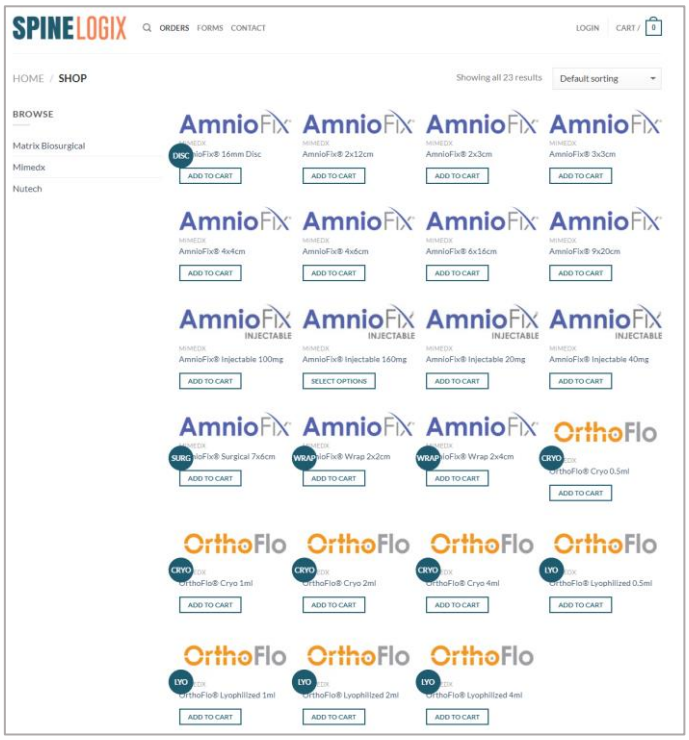


Figure 13 Extract from SpineLogix Website[8]

SpineLogix was formed in 2011 by a Corey Heinz, currently a Stryker Pharmaceutical employee. However, a 2016 filing obtained by Viceroy Research shows that ownership and control over the business was Braly and StreamLogix.

The filing entity being formed is a limited liability company. The name of the entity is:

StreamLogix, LLC

Article 2 – Registered Agent and Registered Office

☐ A. The initial registered agent is an organization (cannot be company named above) by the name of:

OR

☑ B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:
Frank H Braly

C. The business address of the registered agent and the registered office address is:

Street Address:
1519 Chantilly Lane Houston TX 77018

Consent of Registered Agent

☐ A. A copy of the consent of registered agent is attached.

OR

☑ B. The consent of the registered agent is maintained by the entity.

Article 3 - Governing Authority

☐ A. The limited liability company is to be managed by managers.

OR

☑ B. The limited liability company will not have managers. Management of the company is reserved to the members.

The names and addresses of the governing persons are set forth below:

Managing Member 1: (Business Name) **Spine Logix LLC**

Address: **10019 Del Monte Dr. Houston TX, USA 77042**

Managing Member 2: **Frank H Braly** Title: **Managing Member**

Address: **1519 Chantilly Lane Houston TX, USA 77018**

Figure 14 Extract from StreamLogix Certificate of Formation

MiMedx's response dated 29 September 2017 claims that the company has never sold product to them.

[8] https://spinelogixllc.com/shop/

8. Aurelius Claim:
"Evidence also points to related party dealings involving a distributor named Spinelogix. MiMedx's current Texas Regional Sales Director is listed in corporate records as being a partner with SpineLogix in a different LLC named StreamLogix, indicating that a financial relationship exists."

MiMedx:
This is a false statement. Spine Logix is not, presently or previously, a distributor for MiMedx. We have not sold product to them. They are a Sales Agent for MiMedx, meaning they represent us in certain accounts, and then MiMedx sells directly to those accounts and pays Spine Logix a commission.

Figure 15 Extract from MiMedx response "MiMedx Exposes False, Misleading and Fabricated Allegations by Short Sellers" dated 29 September, 2017

The company's distinction between customers and Sales Agents is important as they claim that Sales agents do not purchase product.

1. Viceroy Claim:
"Viceroy has obtained documents from former MiMedx employees detailing sales targets and historical figures broken down by distributor."

MiMedx: This is FALSE. The spreadsheet attached and 'detailed' in the Viceroy fabrication is, in fact, a CONFIDENTIAL MiMedx document. However, it does not detail "Distributors," it details "Sales Agents".

For the education of all involved (but mostly Viceroy), distributors are customers of a company. They purchase and hold inventory, then re-sell that inventory to an end user. Sales Agents are just that, a sales person, and they do not take title to any product. Sales Agents are not customers of a company as they do not purchase product, nor hold any inventory. They do receive a commission on sales that they broker. The company receives orders from, and ships product directly to the end use customer.

Figure 16 Extract from MiMedx response "*MiMedx Addresses Viceroy "Report""* dated 29 September 2017

This was directly contradicted by a 2016 MiMedx sales document obtained by Viceroy Research.

FRANK BRALY	$ 136,757	$ 1,470,258	975%	$ 1,754,145	19%	$ 2,235,103	27%
SLR DISTRIBUTOR		*$ 685,958*		*$ 822,963*	20%	*$ 988,390*	20%
SLR MEDICAL CONSULTLING, LLC		*$ 119,314*		*$ 140,143*	17%	*$ 181,669*	30%
SPINE AGENTS		*$ 231,740*		*$ 208,540*	-10%	*$ 230,835*	11%
DEAN HULETT LLC	*$ 1,095*	*$ 3,785*	246%	*$ 10,900*	188%	*$ 1,195*	-89%
DESHOTELS & ASSOC	*$ 2,800*	*$ 9,040*	223%	*$ 10,280*	14%	*$ 12,960*	26%
FRANK BRALY	*$ -*	*$ 8,350*		*$ -*	-100%	*$ 4,510*	
INMOTION MEDICAL RESRCES LLC	*$ 55,584*	*$ 94,923*	71%	*$ 154,554*	63%	*$ 227,502*	47%
K&K CONSULTING	*$ 52,141*	*$ 143,995*	176%	*$ 110,665*	-23%	*$ 65,201*	-41%
MAX SPINE, LLC	*$ -*	*$ -*		*$ 180,825*		*$ 261,225*	44%
REDMED, INC	*$ 1,496*	*$ 15,140*	912%	*$ 13,460*	-11%	*$ 24,145*	79%
SPINE LOGIX LLC	*$ 23,641*	*$ 158,015*	568%	*$ 80,490*	-49%	*$ 64,272*	-20%
VACANT	*$ -*	*$ -*		*$ 19,527*		*$ 6,809*	-65%
AMNIOGENIC SOLUTIONS, LLC	*$ -*	*$ -*		*$ 1,800*		*$ 158,144*	8686%
R&B MEDICAL	*$ -*	*$ -*		*$ -*		*$ 747*	
STINGRAY MEDICAL LLC	*$ -*	*$ -*		*$ -*		*$ 7,500*	

Figure 17 Extract from MiMedx sales document

Note as well that the above accounts are sales figures from Frank Braly himself: indicating he is selling to his own company. Clearly MiMedx's claims are self-contradictory viewed in context of the company's own sales figures, as SpineLogix would not show up as on a sales figure document.

Braly Holdings LLC aka Streamline Medical Device Consultants

Braly was also principal of Braly Holdings LLC, trading as Streamline Medical Device Consultants

Taxpayer name **BRALY HOLDINGS LLC**

Mailing address **1519 CHANTILLY LN** | Secretary of State (SOS) file number or Comptroller file number **0801816274**

City **HOUSTON** | State **TX** | ZIP Code **77018** | Plus 4

Blacken circle if there are currently no changes from previous year; if no information is displayed, complete the applicable information in Sections A, B and C.

Principal office

Principal place of business

Please sign below! Officer, director and manager information is reported as of the date a Public Information Report is completed. The information is updated annually as part of the franchise tax report. There is no requirement or procedure for supplementing the information as officers, directors, or managers change throughout the year.

320514605116

SECTION A Name, title and mailing address of each officer, director or manager.

Name	Title	Director	Term expiration (m m d d y y)
FRANK BRALY	**PRESIDENT**	○ YES	
Mailing address **1519 CHANTILLY LN.**	City **HOUSTON**	State **TX**	ZIP Code **77018**
Name **FRANK BRALY**	Title **DIRECTOR**	● YES	Term expiration
Mailing address **1519 CHANTILLY LN.**	City **HOUSTON**	State **TX**	ZIP Code **77018**

Figure 18 Extract from Braly Holdings LLC 2016 Public Information Report

ASSUMED NAME CERTIFICATE
FOR FILING WITH THE SECRETARY OF STATE

1. The assumed name under which the business or professional service is or is to be conducted or rendered is:

STREAMLINE MEDICAL DEVICE CONSULTANTS

2. The name of the entity as stated in its certificate of formation, application for registration, or comparable document is:

Braly Holdings LLC

Figure 19 Extract from Streamline Medical Device Consultants Assumed Name Certificate

While Braly claims to have worked for Streamline Medical Consultants from January 2013 to September 2014, Braly Holdings LLC's document of name change is dated July 31 2014 and the company is currently active. In addition to SpineLogix LLC, Braly was also owner of Streamline Medical Device Consultants throughout his time at MiMedx.

Hal Purdy: Recon Medical Devices

Another former MiMedx employee Hal Purdy operated another employee-owned distributor, Recon Medical Devices. Note that Recon was formed in 2015, during which time Purdy was employed in and winning awards at MiMedx

RECON MEDICAL DEVICES, LLC	
Texas Taxpayer Number	32056445862
Mailing Address	6607 ELLSWORTH AVE DALLAS, TX 75214-2727
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	02/18/2015
Texas SOS File Number	0802158189
Registered Agent Name	HAL PURDY
Registered Office Street Address	6607 ELLSWORTH AVE DALLAS, TX 75214

Figure 20 Extract from Recon Medical Devices LLC profile[9]

[9] https://mycpa.cpa.state.tx.us/coa/

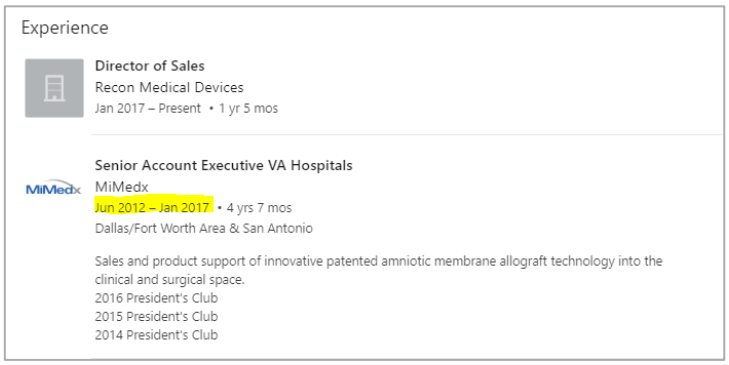


Figure 21 Extract from Hal Purdy's LinkedIn profile[10]

Purdy also used his Recon Medical Devices email to communicate with the Jesse Brown VAMC detailed in Section 3, another clear indicator that MiMedx knew about, and did business with employee owned distributors.

Figure 22 Extract from email exchange between Hal Purdy and VA employee dated May 10, 2016

Donovan Schmidt

Bio-tech Enterprises & BioHealth Associates

Viceroy were informed that MiMedx employee Donovan Schmidt was not only working for Orthofix as well as MiMedx, but was also setting up distributorships.

"There is a MiMedx employee his name is Donovan Schmidt, he is an employee and also a distributor and also works for Orthofix" – Former MiMedx Employee

Figure 23 Extract from Donovan Schmidt's LinkedIn profile[11]

[10] https://www.linkedin.com/in/hal-purdy-1a982811/
[11] https://www.linkedin.com/in/donovan-schmidt-59887234/

Figure 24 Extract from Donovan Schmidt's Facebook profile[12]

Schmidt was the authorized member of Florida company Bio-Tech Enterprises LLC, whose only other principal was Mary Ellen Haid, whose LinkedIn profile shows her being an "Independent Territory Manager" in Atlanta Georgia.

Figure 25 Extract from Mary Ellen Haid's LinkedIn profile[13]

On the same day, April 12, 2017, Mary Ellen Haid and her husband, prominent Atlanta neurosurgeon Dr Regis W Haid Jr set up BioHealth Associates LLC with the same address and agent.

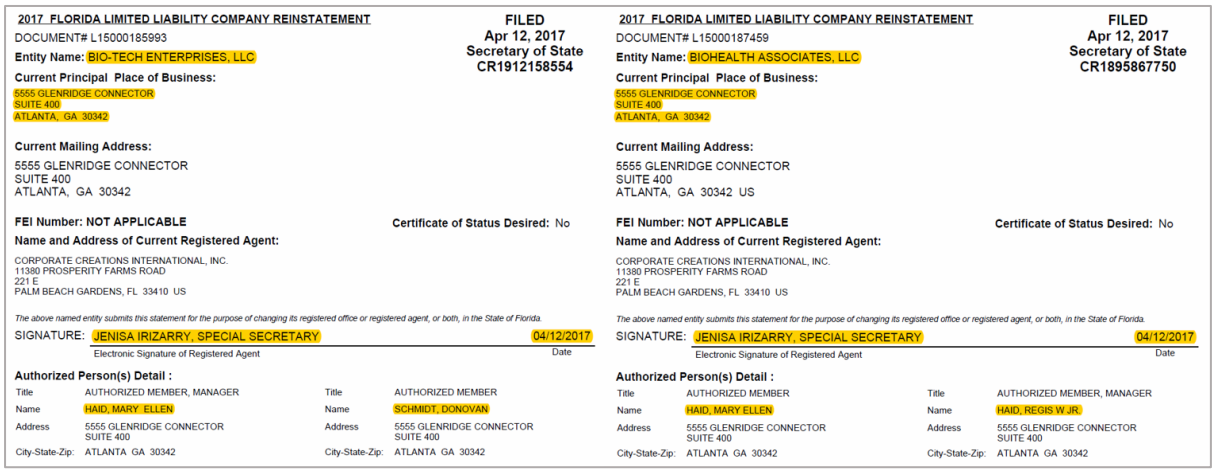


Figure 26 Composite extracts from Bio-Tech Enterprises LLC and BioHealth Associates LLC reinstatement documents

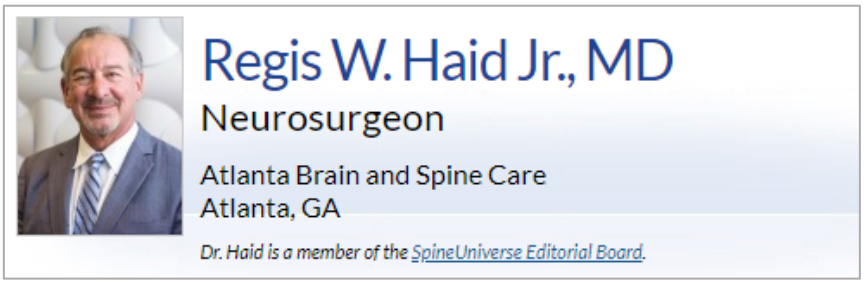


Figure 27 Extract of Regis W Haid Jr's spineuniverse.com profile[14]

[12] https://www.facebook.com/donovan.schmidt.3?ref=br_rs

[13] *Note: As of May 10, 2018 Mary Ellen Haid's LinkedIn profile cannot be found*

[14]

Advanced BioMaterials LLC

Donovan Schmidt also appears to be operating Georgia company Advanced BioMaterials LLC which as of the time of writing is still in active/compliant status:

BUSINESS INFORMATION

Business Name:	ADVANCED BIOMATERIALS LLC	Control Number:	09043123
Business Type:	Domestic Limited Liability Company	Business Status:	Active/Compliance
Business Purpose:	NONE		
Principal Office Address:	3555 Southlake Ct, Cumming, GA, 30041, USA	Date of Formation / Registration Date:	6/17/2009
State of Formation:	Georgia	Last Annual Registration Year:	2018

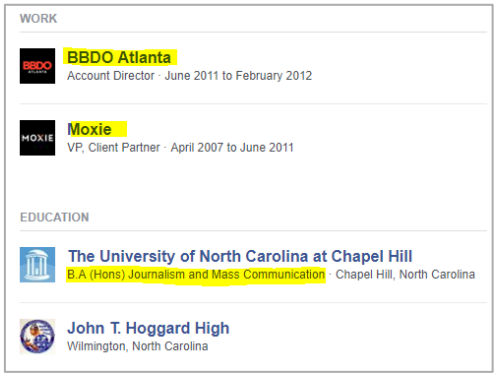
REGISTERED AGENT INFORMATION

Registered Agent Name:	Schmidt, Donovan
Physical Address:	3555 southlake ct, cumming, GA, 30041, USA
County:	Forsyth

Figure 28 Extract from Advanced BioMaterials' Georgia Corporations Division profile[15]

SRS Orthopedic

Donovan Schmidt's wife, Shannon Renee Schmidt also appears to operate a medical supplier, SRS Orthopedic LLC. Considering that Shannon's **education and prior workplace experience is in advertising**, we find it suspicious for her **to own and maintain an orthopedics-related business**. Viceroy finds it more likely that Donovan Schmidt created the business under his wife's name.



WORK

BBDO Atlanta
Account Director · June 2011 to February 2012

Moxie
VP, Client Partner · April 2007 to June 2011

EDUCATION

The University of North Carolina at Chapel Hill
B.A (Hons) Journalism and Mass Communication · Chapel Hill, North Carolina

John T. Hoggard High
Wilmington, North Carolina

Figure 29 Extract from Shannon Schmidt's Facebook profile[16]

BUSINESS INFORMATION

Business Name:	SRS ORTHOPEDIC, LLC	Control Number:	13066956
Business Type:	Domestic Limited Liability Company	Business Status:	Admin. Dissolved
Business Purpose:	NONE		
Principal Office Address:	3555 Southlake Ct, cumming, GA, 30041, USA	Date of Formation / Registration Date:	1/28/2013
State of Formation:	Georgia	Last Annual Registration Year:	2016
Dissolved Date:	08/24/2017		

REGISTERED AGENT INFORMATION

Registered Agent Name:	SHANNON SCHMIDT
Physical Address:	4181 BARNES MEADOW RD SW, SMYRNA, GA, 30082, USA
County:	Cobb

Figure 30 Extract from SRS Orthopedic's Georgia Corporations Division profile[17]

Further both businesses have the same residential Georgia address registered as their Principal Office Location.

[15] https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=1454767&businessType=Domestic%20Limited%20Liability%20Company

[16] https://www.facebook.com/shannon.schmidt.104

[17] https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=1789557&businessType=Domestic%20Limited%20Liability%20Company

Figure 31 Google Maps satellite view of 355 Southlake Ct

Ricky Palmer

MiMedx employee Richard "Ricky" Palmer listed himself as an employee of Southwest Medical Systems Inc, an Arizona-based medical supplier. According to government payment data aggregator govtribe.com, Southwest Medical Systems made a total of three sales from 2011 to 2014, one of which is named as EpiFix and the rest matching its description.

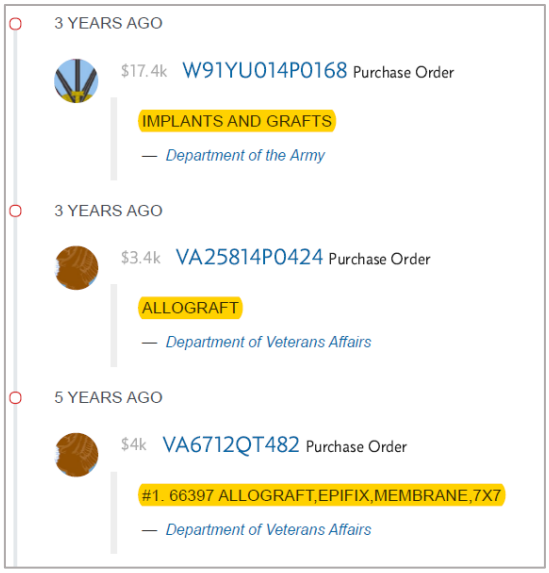


Figure 32 Southwest Medical government contract data[18]

Palmer's automatically generated radaris.com resume lists Palmer working as a member of Southwest Medical Systems.

[18] www.govtribe.com

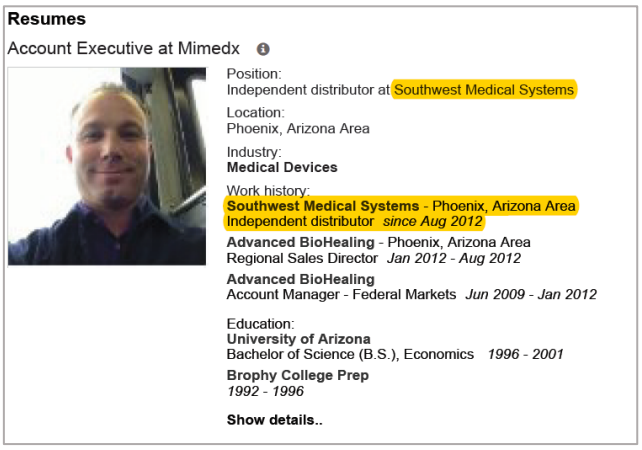


Figure 33 Extract of Ricky Palmers LinkedIn profile[19]

Radaris.com automatically generates an individual's resume based on their LinkedIn profile: refreshing every 12 months. Palmer's generated resume shows that he historically listed himself as an independent distributor at Southwest Medical Systems since August 2012.

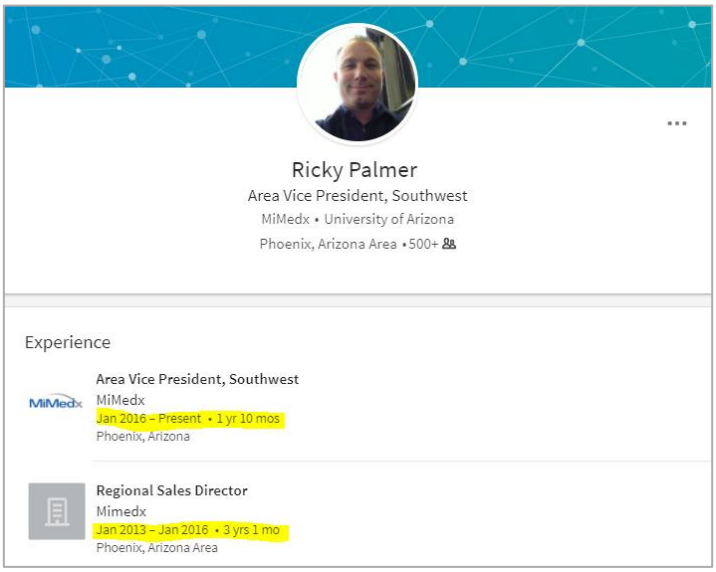


Figure 34 Extract of Ricky Palmers LinkedIn profile

His now-updated LinkedIn shows that during this time he worked at MiMedx as a regional sales director. Note that Southwest Medical Systems lists its location as well within Palmer's sales territory.

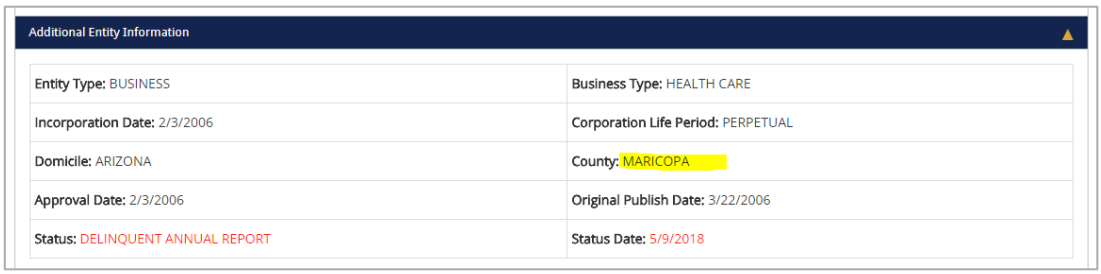


Figure 35 Southwest Medical Systems business extract[20]

[19] www.linkedin.com
[20] http://ecorp.azcc.gov/Details/Corp?corpId=%2012611034

Physician Owned Distributors

Numerous whistleblowers detailed Frank Braly's role in setting up physician-owned distributors ("PODs") as part of a covert and illegal kickback scheme. MiMedx also did business with several other physician-owned distributors.

RedMed

Also listed on the MiMedx sales document obtained by Viceroy is RedMed, Inc ("RedMed"), a Texas entity owned by Jeff Hannes located at 320 N McColl Suite C McAllen TX 78501. At the time of our publication of a report into RedMed, it was involved in a legal action due to its alleged use of kick-back payments to doctors and staff of the South Texas Health System.

> 2. In addition, Santos was receiving illegal kick-back payments from RedMed and Hannes. RedMed and Hannes sell medical devices to doctors in the Rio Grande Valley and
>
> 67. The Santos/RedMed financial relationship also created powerful incentives for Fulp and Santos to overuse medical devices and products sold by RedMed. For example, a McAllen. Ponce learned that RedMed was paying kickbacks to Santos, that RedMed paid Santos a portion of the commission on devices used in Fulp's scheduled surgeries, and that RedMed's

Figure 36 Extract from Case 7:13-cv-00495

In addition to the above allegations, RedMed's principal Jeff Hannes is involved in several businesses with physicians, often as owner of manager. RedMed's address is shared by almost all these entities.

Figure 37 Extract from Google Maps Streetview of 320 N McColl Rd McAllen TX 78501

Company Name	MDs involved	Office Address	Texas company ID
Jam Ranch LLC	Alejandro J Betancourt	320 N McColl Rd McAllen, TX 78501	32040945456
Jarr Ranch LLC	Ricardo Rene Veda	2876 Fleet St	32019363111
PRN Neuro Monitoring Services Management LLC	Alejandro J Betancourt	320 N McColl Rd McAllen, TX 78501	32028151747
Free Run Neuro-	Reuben D Pechero, Guillermo Pechero	320 N McColl Rd	32018042591
Southwest Medical LLC	Derek Holland	320 N McColl Rd McAllen, TX 78501	32038116474
363622 LLC	Jose Dones	320 N McColl Rd McAllen, TX 78501	32027490435
Jhmlag LLC	Michael Lagrange	2319 Devries Palmhurst, TX 78593	32058755508

Figure 38 Table of Jeff Hannes-associated entities

To reiterate: at the time of our publication on RedMed, MiMedx claimed that it absolutely does not sell to physician-owned distributors. Considering:

- MiMedx has admitted RedMed is (at least) a sales agent.
- RedMed's principal, Jeff Hannes, is clearly in business with physicians at the same address as the RedMed facility.
- RedMed has been alleged to provide kickbacks to physicians in the past.

Viceroy find it difficult to believe MiMedx are unaware they are doing business with PODs; such a lack of disclosure implies management are either extremely inattentive to their customers or MiMedx is lying to investors.

CPM Medical/Forrest Park

CPM Medical ("CPM") was a Texas distributor previously used by MiMedx. Jerry Morrison's SLR Consulting later took over CPM's role, we believe due to discovery of serious fraud at CPM customer Forest Park Medical Center ("FPMC"). MiMedx neglects to mention CPM or FPMC in their disclosure in their response dated 29 September 2017:

> One of the principles of SLR is a former MiMedx employee. After the CPM contract ended, he left the company to join his fiancé (now wife) who previously managed the distributorship. SLR then became the MiMedx distributor in the Texas territory and replaced CPM. There was no contract or sales between SLR and MiMedx while the principle of SLR was an employee.

Figure 39 Extract from MiMedx response "MiMedx Exposes False, Misleading and Fabricated Allegations by Short Sellers" dated 29 September, 2017

FPMC was a physician-owned hospital whose creators and facilitators (all 21 of them) were indicted for making some US$40m in bribes and kickbacks to physicians.

> All of the founders at FPMC, including Toussaint and co-defendants Beauchamp, Burt, Barker, and the other founders knew that FPMC would pay surgeons marketing checks in exchange for bringing surgeries, especially lucrative out-of-network surgeries, to FPMC as opposed to other facilities. Beauchamp discussed the details of the payments with each doctor, and he kept tabs on how many surgeries they brought to FPMC. Beauchamp used a metric to calculate the payments based on the surgeons anticipated case volumes at FPMC. The payments quickly grew from $300,000 a month to $1.2 million a month. Beauchamp would update Toussaint and Barker on the bribe payments. Toussaint would often be copied on emails where Barker would ask Beauchamp how much certain doctors were being paid.
>
> To induce patients with both in-network and out-of-network benefits to come to FPMC, and to facilitate the bribe and kickback payments, FPMC systematically waived coinsurance or reduced it to in-network levels. According to Toussaint, this practice was concealed or misrepresented to insurance carriers so they would not refuse to reimburse the hospital. Everyone associated with FPMC, including Beauchamp, Burt, Toussaint, Barker, and the surgeons receiving bribe and kickback payments, knew that FPMC guaranteed patients prior to surgery that they would not pay or would pay only the equivalent of in-network patient-responsibility payments.

Figure 40 Extract from DOJ press release dated March 17, 2017[21]

Documents from bankruptcy proceedings show that CPM Medical were FPMC's fourth largest creditor, owed US$519,254. Further, the creditor list also lists MiMedx employee Jerry Morrison's SLR Consulting as a creditor.

Creditor	Location	Type	Amount Due
Sabra Texas Holdings, LP	Dallas, TX	Landlord	$8,517,302.16
Vibrant Management	Dallas, TX	Vendor	$866,255.00
Intuitive Surgical	San Francisco, CA	Vendor	$596,964.08
CPM Medical LLC	Richardson, TX	Vendor	$519,254.94

Figure 41 Extract from University of Tennessee case study[22]

001100P001-1336A-010 SLR MEDICAL CONSULTING LLC 1717 MCKINNEY AVE STE 700 DALLAS TX 75202	001621P001-1336A-010 ALPHA MED DISTRIBUTORS LLC 3930 MCKINNEY AVE STE 159 DALLAS TX 75204	002129P001-1336A-010 MIMEDX GROUP INC 811 LIVINGSTON CRT SE STE B MARIETTA GA 30067

Figure 42 Extract from FPMC Bankruptcy proceedings

[21] https://www.justice.gov/usao-ndtx/pr/anesthesiologist-and-forest-park-medical-center-founder-pleads-guilty-40-million

[22] Millsaps, Lori Lynn, "Forest Park Medical at Frisco, LLC.: The Decline of one Structure and the Rise of Another" (2016). *Chapter 11 Bankruptcy Case Studies.*

Shortly after, CPM defaulted on its line of credit. Viceroy believes that this was due to the businesses overwhelming reliance on FPMC and its fraudulent activities.

> 71. Upon information and belief, CPM Medical defaulted on its line of credit thereafter, causing MiMedix to shift more of its channel stuffing efforts to AvKARE and to SLR Medical Consulting.

Figure 43 Extract from MiMedx v. Kruchoski [23]

"…significant product discounts as well as exclusive territory rights within Texas, in exchange for CPM Medical placing large orders for MiMedx products at the end of quarters CPM[24]"

Forest Park's involvement with the story goes further: CPM Medical is controlled by Mark Brooks, an individual with several entities in various stated of activity all of which have registered at least one MiMedx product.

Entity Name	FDA Listed Address	Status	Last registration year	FDA Human Cell & Tissue Establishment - Product Listing
A-Gen	1565 N. Central, 2nd floor, 75080	Inactive	2014	Amniotic Membrane, Amnioclear, AmBioChoice, AmBioChoice Plus, and Ovation
Allegheny Medical Supply, LLC	1660 Dunaway Crossing 75069	Inactive	2014	AmbioDry2, Ambio5, EpiFix, BioCover, Amnioclear, AmBioChoice, AmBioChoice Plus, Ovation, Grafix Core, Grafix Prime
CPM Medical	1565 N. Central, Ste 150, 75080	Active	2017	AmBioChoice, AmBioChoice Plus, AmnioFix, Epi XL,Allogen, Allogen-LI,Cygnus,Bio Dry Flex and Via Form
Palm Springs Partners, LLC (dba Maxim Surgical)	1565 N. Central, Suite 200-A, 75080	Active	2017	Amniofix, AmBioChoice, AmBioChoice Plus.
Tempus Medical Management, LLC	1565 Central Expy 75080	Inactive	2014	AmbioDry2, Ambio5, EpiFix, Amnioclear, AmBioChoice, AmBioChoice Plus, Ovation, Grafix Core, Grafix Prime
Texas AmBioMed, LLC	1565 N.Central, Suite 200, 75080	Inactive	2012	AmbioDry2, Ambio5, EpiFix, BioCover, BioXclude,
Top Tiger	1565 N. Central, Suite 200, 75080	Inactive	2015	AmbioDry2, Ambio5, Epifix, BioCover, Amnioclear, AmbioChoice, AmbioChoice Plus, Ovation, Grafix Core/Prime, AmnioFix

Figure 44 Table of Mark Brooks-associated entities

Mark Brooks is also principal of Texas company Medtech of the Americas LLC, doing business as, Medtech ASC Division LLC. National Provider Identifier records show that indicted FPMC member Iris Kathleen Forest is the authorized official for Medtech ASC Division LLC.

MiMedx also does business with another indicted FPMC individual: Israel Ortiz, through his Texas company IO Orthopedic Systems LLC.

[23] Case No: 50-2016-CA-031806

[24] Palm Beach County Case No: 50-2016-CA-013806-XXXX-MB

IO ORTHOPEDIC SYSTEMS LLC	
Texas Taxpayer Number	32042536204
Mailing Address	2807 ALLEN ST # 820 DALLAS, TX 75204-1031
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	08/27/2010
Texas SOS File Number	0801311774
Registered Agent Name	ISRAEL ORTIZ
Registered Office Street Address	8100 JOHN W. CARPENTER FWY SUITE 150 DALLAS, TX 75247

Figure 45 Extract from IO ORTHOPEDIC SYSTEMS LLC profile[25]

HUMAN CELL AND TISSUE ESTABLISHMENT REGISTRATION - Public Query
Establishment Details

Establishment Name and Location

Current Status: Registered
Last Annual Registration Year: 2017
FDA Establishment Identifier (FEI): 3011706002
Establishment Name: IO Orthopedic Systems LLC
Address: 8100 John W Carpenter Freeway
Suite 210

q.	Umbilical Cord Blood Stem Cells				
r.	Vascular Graft				
s.	Amniotic Membrane	X	X		Amniofix

Figure 46 Composite Extract from IO ORTHOPEDIC SYSTEMS LLC HCTERS profile[26]

Kickback, bribery

As detailed in Section 2 above, MiMedx is associated with several PODs.

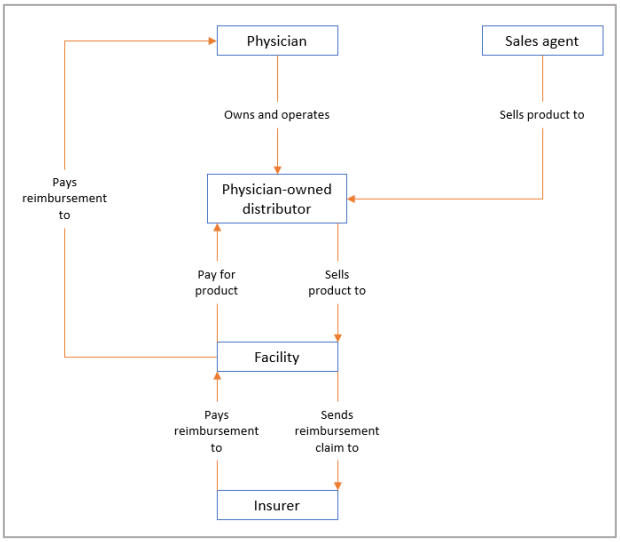


Figure 47 Sample structure of POD

[25] https://mycpa.cpa.state.tx.us/coa/
[26] https://www.accessdata.fda.gov/scripts/cber/CFAppsPub/tiss/Index.cfm

In effect, this scheme benefits both the physician and the sales agent:

1. The physician and distribution representative (sales representative, sales agent, or other company rep) will setup a Limited Liability Company ("LLC").
2. The LLC would sell products to hospitals for physician procedures, including the physician acting as an agent for MiMedx products.
3. The physicians would get paid twice this way: once with the reimbursement from the hospital and then again through the LLC for the sale of the product (i.e. commission).

We have notified the SEC/DOJ of these concerns as we were informed local invoices will prove MiMedx is conducting this activity.

Repercussions

Various documents obtained by Viceroy show that individual VA facilities have caught on to MiMedx's practices, which violate facility and policy regulations. This was corroborated by whistleblowers and former employees who claimed MiMedx had been evicted from several VA facilities

The following is an extract from court documents regarding a case between former MiMedx employee Harold "Hal" Purdy and MiMedx.

> Based on information and belief, as a result of a channel stuffing scheme allegedly carried out by MiMedx resulting in investors being defrauded, and numerous publications discussing this particular tactic on December 15 and 16, 2016, the South Texas Veteran's Health Care System in San Antonio, Texas no longer allowed representatives selling products to market their products to podiatry in the facility, which ultimately went hospital wide and is still enforced today. This is evidenced by an email exchange between RK Simon and Kevin Lilly which discusses being shut out of the facility on December 21, 2016. As a result, Purdy lost the ability to perform his job with respect to roughly ninety-seven percent of his volume. The channel stuffing actions and

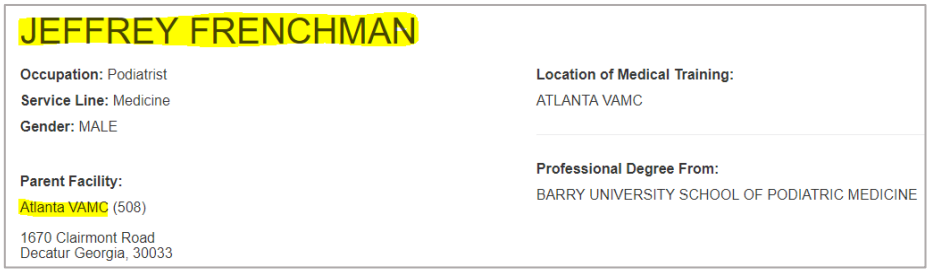
Figure 48 Extract from MiMedx v. Purdy & Recon Medical Devices[27]

This was corroborated by whistleblower 11, who claimed the company had been shut out from doing business with the Atlanta VA facility due to their activities with Jeffrey Frenchman, DPM

[27] CAUSE NO. DC-16-16478

WHISTLEBLOWER 11	[Edited to remove possible identifying comments]…[MiMedx] **shot themselves in the foot because they've lost all that business.** I don't think they've gotten it back. **I don't know how they're hitting their numbers that's what's blowing me away. What is going on? How are they supposedly hitting these numbers? I want to know.**
INTERVIEWER	Well apparently the market believes them. Yeah
WHISTLEBLOWER 11	Well yeah, because they…, **most of these big VA's they've been kicked out of so I don't know…I don't know.**
INTERVIEWER	Oh wow,
WHISTLEBLOWER 11	**I don't know, this is crazy.**
INTERVIEWER	So, **you know where they've been kicked out of the big VA's**? Is there-
WHISTLEBLOWER 11	**Atlanta VA would be a big one.**
INTERVIEWER	Yeah?
WHISTLEBLOWER 11	**And numerous ones around the country-**
	- **Break - Other conversation**
INTERVIEWER	Yeah so, **the Atlanta VA right so why were they kicked out of there**?
WHISTLEBLOWER 11	**Well uh they were channel stuffing I believe number one** and uh **number two they were using a ridiculous- they were using and reselling a lot of product through one doctor there**. And they **eventually just shut him down because I think he was abusing it. He was a speaker for- for us Frenchman is his last name**. I think its Jeff Frenchman and **we were doing hundreds of thousands probably a month with him. And um**
INTERVIEWER	Wow
WHISTLEBLOWER 11	**There may have been some illegal activity but I don't know what**

Figure 49 Partial transcript of whistleblower account



JEFFREY FRENCHMAN

Occupation: Podiatrist
Service Line: Medicine
Gender: MALE

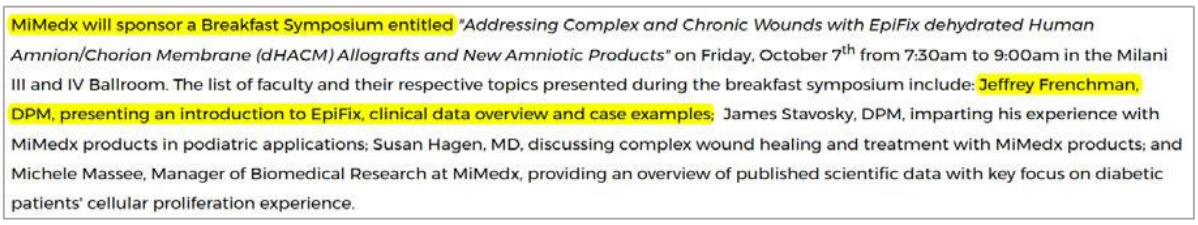
Parent Facility:
Atlanta VAMC (508)

1670 Clairmont Road
Decatur Georgia, 30033

Location of Medical Training:
ATLANTA VAMC

Professional Degree From:
BARRY UNIVERSITY SCHOOL OF PODIATRIC MEDICINE

Figure 50 Extract from Jeffrey Frenchman VA.gov profile[28]



MiMedx will sponsor a Breakfast Symposium entitled *"Addressing Complex and Chronic Wounds with EpiFix dehydrated Human Amnion/Chorion Membrane (dHACM) Allografts and New Amniotic Products"* on Friday, October 7th from 7:30am to 9:00am in the Milani III and IV Ballroom. The list of faculty and their respective topics presented during the breakfast symposium include: Jeffrey Frenchman, DPM, presenting an introduction to EpiFix, clinical data overview and case examples; James Stavosky, DPM, imparting his experience with MiMedx products in podiatric applications; Susan Hagen, MD, discussing complex wound healing and treatment with MiMedx products; and Michele Massee, Manager of Biomedical Research at MiMedx, providing an overview of published scientific data with key focus on diabetic patients' cellular proliferation experience.

Figure 51 Extract from MiMedx PR Newswire release "Advances In Regenerative Medicine With MiMedx EpiFix® And AmnioFix® To Be Presented At SAWC Fall Meeting" dated October 6, 2016[29]

[28] https://www.accesstocare.va.gov/ourproviders/Main/SearchResults#!#f=6&n=Frenchman&e=0&p=10&s=42&

[29] https://www.prnewswire.com/news-releases/advances-in-regenerative-medicine-with-mimedx-epifix-and-amniofix-to-be-presented-at-sawc-fall-meeting-300340407.html

3. Circumvention of government regulations

MiMedx gas repeatedly shown a complete disregard for several government regulations especially those governing kickbacks and reimbursement.

FDA

MiMedx claims their products are defined as Human Cells, Tissues and Cellular and Tissue-Based Products ("HCT/Ps") and refers to them in its annual reports as 361 HCT/Ps. Products regulated under section 361 do not need, amongst other things, a Biologics License Application ("BLA") or an Investigational New Drug Application ("IND").

The FDA did not agree with this definition and issued the company an Untitled Letter in 2013 informing the company that it would be and was marketing several of their products illegally including AmnioFix Injectable.

If an HCT/P meets all the above criteria, no FDA review for safety and effectiveness under a drug, device, or biological product marketing application is required. We believe that our amniotic tissue allografts are 361 HCT/Ps, including the micronized versions of EpiFix and AmnioFix.

However, on August 28, 2013, the FDA issued an Untitled Letter alleging that our micronized amniotic tissue allografts do not meet the criteria for regulation solely under Section 361 of the Public Health Service Act and that, as a result, MiMedx would need a biologics license to lawfully market those micronized products. Since the issuance of the Untitled Letter, we have been in discussions with the FDA to communicate its disagreement with the FDA's assertion that our allografts are more than minimally manipulated. To date, the FDA has not changed its position that our micronized products are not eligible for marketing solely under Section 361 of the Public Health Service Act. We continue to market the micronized products but are also pursuing the Biologics License Application ("BLA") process for certain of our micronized products.

On December 22, 2014, the FDA issued for comment "Draft Guidance for Industry and FDA Staff: Minimal Manipulation of Human Cells, Tissues, and Cellular and Tissue-Based Products." Essentially the Minimal Manipulation draft guidance takes the same position with respect to micronized amniotic tissue that it took in the Untitled Letter to MiMedx 16 months earlier. We submitted comments asserting that the Minimal Manipulation draft guidance represents agency action that goes far beyond the FDA's statutory authority, is inconsistent with existing HCT/ P regulations and the FDA's prior positions, and is internally inconsistent and scientifically unsound.

Figure 52 Extract from MiMedx Annual Report 2016[30]

Despite this, MiMedx continued to market AmnioFix Injectable, claiming it was working out a transition plan with the FDA.

market the products under specific conditions…If the Company and the FDA are not able to agree on a transition plan, the Company may have to remove the micronized products from the market or limit its marketing of the micronized products in some way, although it may also be able to continue to market them.† (*See* December 14, 2012 Press Release: "MiMedx provides update on continuing discussions with FDA").

Figure 53 Extract of Gladowski v MiMedx et al[31]

As it turns out, MiMedx's faith in their transition plan was misplaced. In March 2018, the FDA designated Mimedx's AmnioFix Injectable as Regenerative Medicine Advanced Therapy ("RMAT") which notably is not regulated under section 361. RMAT products undergo expedited clinical trials during which the product cannot be marketed.

[30] https://www.sec.gov/Archives/edgar/data/1376339/000137633917000042/mdxg-20161231x10k.htm
[31] Case 1:13-cv-03074-TWT

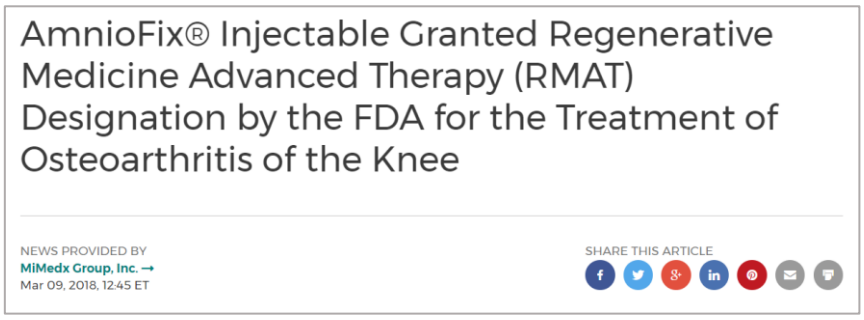


Figure 54 MiMedx press release – March 9, 2018[32]

Despite the positive spin put on this news by MiMedx press releases what this essentially meant is that they could no longer, as of March 2018, sell AmnioFix Injectable.

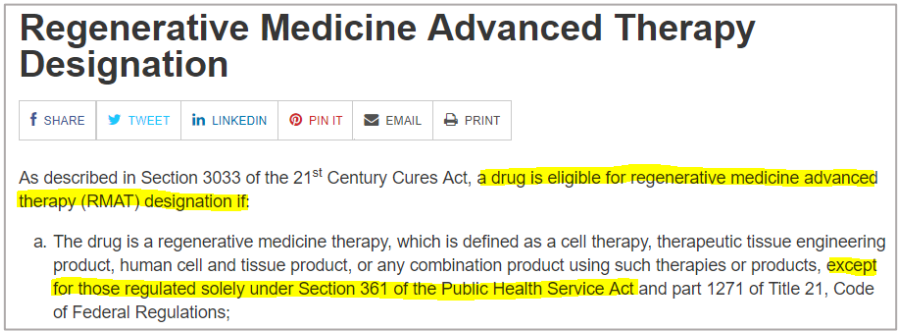


Figure 55 FDA RMAT information page[33]

No explicit mention of this was ever made to the market even though MiMedx had been selling AmnioFix Injectable since 2012[34]. Viceroy estimates that AmnioFix Injectable accounted for a significant portion of revenue per year and the clinical trial is still in its early stages.

Figure 56 MiMedx press release – 28 March, 2018[35]

Viceroy believe that MiMedx should have informed the market of its inability to market AmnioFix Injectable and in particular their actions in defiance of the FDA leading up to that event.

Undisclosed payments to doctors

We've previously raised concern that MiMedx does not report payments it makes to physicians as required per the Sunshine Act[36].

[32] https://www.prnewswire.com/news-releases/amniofix-injectable-granted-regenerative-medicine-advanced-therapy-rmat-designation-by-the-fda-for-the-treatment-of-osteoarthritis-of-the-knee-300611583.html
[33] https://www.fda.gov/BiologicsBloodVaccines/CellularGeneTherapyProducts/ucm537670.htm
[34] https://www.prnewswire.com/news-releases/mimedx-announces-nationwide-launch-of-amniofix-injectable-at-american-academy-of-orthopaedic-surgeons-annual-meeting-138925119.html
[35] https://www.prnewswire.com/news-releases/mimedx-enrolls-first-patient-in-its-phase-2b-clinical-trial-of-rmat-designated-amniofix-injectable-for-the-treatment-of-osteoarthritis-of-the-knee-300620798.html
[36] You can conduct your own searches on www.cms.gov

In response to the Wall Street Journal to this issue, **MiMedx advised that it doesn't have to report payments to physicians** because it's products are classified as tissues **under Section 361** of the Public Health Services Act.

> The CMS website shows no record of stock grants, speakers' fees and research support provided by MiMedx to doctors and their hospitals in recent years, though its financial relationships with at least 20 doctors appear in public disclosures that were reviewed by the Journal.
>
> Executives at MiMedx contend the company doesn't have to report its payments to physicians because its products are classified as tissues under Section 361 of the Public Health Service Act and it is therefore not a "applicable manufacturer."

Figure 57 WSJ Article - MiMedx, Fast-Growing Developer of Tissue Graft Products, Didn't Report Payments to Doctors [37]

MiMedx further states that it received an opinion from CMS that confirms MiMedx does not need to report payments to physicians, despite CMS definitively stating it does not offer such opinions.

> MiMedx's website states that it has "received an opinion from CMS which confirms that MiMedx does not have a need to report at this time."
>
> But Tony Salters, a CMS spokesman, said the agency doesn't provide such opinions. Outside of a compliance action, he said in an email, the agency doesn't give individual determinations, in writing or otherwise; rather, it provides general guidance that companies can consider.
>
> Asked how MiMedx could have received an opinion from an agency that says it doesn't provide them, Parker H. "Pete" Petit, MiMedx's chief executive, referred questions to Andy Ruskin, at Morgan, Lewis & Bockius in Washington, D.C., MiMedx's regulatory lawyer.
>
> Mr. Ruskin declined to discuss specifics about MiMedx's discussions with CMS. In general, he said, "how you act on the feedback you are getting from the government is going to be the same irrespective of whether the government labels what they issue an opinion or labels it as guidance or does not provide any label whatsoever."

Figure 58 WSJ Article - MiMedx, Fast-Growing Developer of Tissue Graft Products, Didn't Report Payments to Doctors [38]

Even if this opinion from CMS did in fact exist, MiMedx no longer falls strictly within Section 361 for its product line and, to our knowledge, has not commenced reporting payments to physicians and has not retrospectively reported payments to physicians.

AvKare

MiMedx previously sold product to government entities through AvKare, an entity acting ostensibly as a distributor. This was corroborated by a 2014 investigation by the Veteran Administration's Office of the Inspector General ("VA OIG") concluding that AvKare did not meet the criteria of possessing the product.

> AvKARE's outstanding RFMs. AR Tab 173 at 20954–55. First, the OIG reported, AvKARE was considered a "distributor of the offered products, not the manufacturer") because "[t]he offered products are never in the possession of AvKARE throughout the process." Id. at 20954. Instead, the products were "shipped in bulk containers from the

Figure 59 Extract from AvKare v. The United States of America Bid Protest 15-1015C

[37] https://www.wsj.com/articles/mimedx-fast-growing-developer-of-tissue-graft-products-didnt-report-payments-to-doctors-1519300800

[38] https://www.wsj.com/articles/mimedx-fast-growing-developer-of-tissue-graft-products-didnt-report-payments-to-doctors-1519300800

Despite MiMedx and AvKare's insistence otherwise, this arrangement was corroborated in a deposition by MiMedx Vice President of Global Sales Mike Carlton.

6 A We -- AvKare didn't sell the product. They
7 didn't do anything. They just made it easier to sell.

Figure 60 Extract from Deposition of Mike Carlton[39]

AvKare played a prominent role in MiMedx's channel stuffing activities, as the company use AvKare's Federal Supply Schedule ("FSS") to sell to government entities. MiMedx decided to obtain their own FSS in 2014 allowing it to sell directly to government entities, the company elected to extend its agreement with AvKare until June 30, 2017[40].

Until June 30, 2017 AvKare acted as a front for MiMedx, as shown in the invoice obtained by Viceroy below.

B. Item Information: Accounting and Appropriation Data

Funding Amount as Verified by POC	Station Code	BOC & Fund Control Point
$5,190.02	618	913

Detailed Description of Item/Aid: SURGICAL IMPLANT-EPIFIX

Consult/Reference* Identification
*IEN 668# plus station identifier (e.g. Veteran's Last Initial and last 4 digits of the Veteran's SSN (for filtering purposes))
26995-30

C. Detailed Procurement Information: Provide the following information

List any Mandatory Sources (these are referred to as National Committed Use Contracts). Add Waiver req't if not used.
NA
NOTE: Per VHA Handbook 1761-1 these would require waivers if the standardized contracts are not used.

List any Federal Supply Schedule (FSS) National or Local Contract Numbers utilized
V797P-4076b

Vendor Name: AVKARE

Vendor Point of Contact Info Name	VISTA/IFCAP Vendor #
LUKE TORNQUIST	53162

Fax Number, Phone Number, or eMail Address to Send Documents for POC above	Date Item/Service Required
866-967-0134/931-292-6222 AvKare Phone number	Aug 4, 2014

Delivery Information	Delivery Address (If "Other")
Other	ALREADY IMPLANTED, 7/28

Payment Only?	Consult Type	Consult Date	Quote Date
Yes	Payment Only	Jul 28, 2014	Jul 28, 2014

Figure 61 Extract from AvKare invoice

Note several inconsistences:

1. The fax number above is MiMedx's fax number, not AvKare's: invoices would be faxed.
2. The phone number is AvKare's phone number.
3. The contact person, Luke Tornquist was a MiMedx employee, not an AvKare employee.
4. The FSS number is AvKare's.

Clearly AvKare was acting as a front: enquiries would go by phone to AvKare however all relevant billing and orders would go directly to MiMedx.

Note also that the channel-stuffing activities by no means stopped when the company's agreement with AvKare expired, as we will show further in this document.

[39] Extract from Case 2:17-cv-02028-JTF-egb Document 43-3 Filed 12/04/17
[40] https://www.prnewswire.com/news-releases/mimedx-agreement-with-avkare-expires-as-planned-following-completion-of-contract-wind-down-300483453.html

This was corroborated by a leaked email from MiMedx's Director of Sales Operations Lou Roselli showing the company was unable to reconcile its federal inventory stating:

"the CEO of AvKare is involved which means Pete is involved".

From: Lou Roselli
Sent: Wednesday, December 9, 2015 4:36 PM
To: Tom Dion; Mike Fox; Nick Andolino; Brian Luse
Cc: [redacted]

Subject: Fwd: Concerns with MiMedx inventory counts
Attachments: Problems on September Inventory Count.xlsx; ATT00001.htm; sig.gif; ATT00002.htm

All,

See below emails. AvKare has noticed that our federal inventory reconciliation is way off and the CEO of AvKare is involved which means Pete is involved. We can't afford to take any big credits before the end of the year because the AE's did not keep good inventory. This also concerns me about the quality of the commercial inventory reconciliation that was also happening the past 2 weeks.

It is likely that we will need your reinforcement to redo the entire inventory reconciliation next week.

Moving forward requiring daily tissue implanting as we discussed at the meeting this week would resolve this problem as tissue inventory would be accurate and checked monitored weekly by the AEs.

If we can not reconcile the federal inventory and AvKare pushes us for a credit on 511 tissues you can imagine what will happen to the quarter.

This will be the topic of of federal conference call on Monday so that we can come up with a solution.

Thanks,

Lou Roselli
Director, Sales Operations
National Director of Federal Sales
Office 770-651-9125 | Cell 954-288-4182

MiMedx
1775 West Oak Commons Ct. NE
Marietta, GA 30062
lroselli@mimedx.com
www.mimedx.com

Begin forwarded message:

1

Figure 62 Extract from email from Lou Roselli dated December 9, 2015

Roselli's part as messenger from management spreading the message of channel stuffing was corroborated in several whistleblower court documents:

Mr. Roselli: No, I—look, I get it. I—I've sat on the other side of the table and I've been asked to do it, you know. And now I'm on the other side asking everybody to do it too, you know. What I'll tell you is that—I mean, if you can do it you know, and just don't want to do it, and orders come through—this is—this is right out of Pete's mouth. So this is the— Pete says—I [unintelligible]—I fully understand the risk that we're taking. We share the same risk with him. And he said: But this is a company directive. So if they can help, they need to help. And if they don't and orders come through between now and [team meeting]—this is the only time I've ever heard him cuss. He said: Their ass is grass. So, I'm just—I'm just putting it out there. I don't want to see anybody in trouble became an order came in in January that he didn't want to come in, you know.

NOT A CERTIFIED

Figure 63 Extract from Kruchoski v. MiMedx & Petit[41]

Circumvention of VA Regulations

Figure 64 Photo of MiMedx products used channel stuffed at VA facility[42]

Name	Item Number	Number	Unit price	Total
EpiFix 7 x 7	GS-5770	22	$ 6,685.00	$ 147,070.00
Unknown	Unknown	unknown	unknown	$ 35,000.00
				$ 182,070.00

Viceroy's enquiries to the VA facility specified by the above image's EXIF data confirmed that at any one time they would expect to have only US$20,000 worth of MiMedx products on hand. The image above represents almost 10 times that amount.

MiMedx announced in 2014 that it had begun work on obtaining an FSS, and the process of moving customers from doing business with AvKare to dealing directly with the company.

[41] Case No.: 50-2016-CA-013806-XXXX-MB

[42] *Note: We have blurred serial numbers, barcodes, and expiry dates to avoid identification of former employees by MiMedx.*

On May 9, 2016 the following email was sent to MiMedx's Southwest Regional Sales Directors from MiMedx Southwest Area Director Ricky Palmer. The email details the supposed ins-and-outs of the VA's new policy regarding reimbursement. Note that the subject matter is largely centered around:

1. Consignment agreements – which allow product to be shipped to a facility without need so that the facility has it on hand.
2. Avoiding the need for prior authorization ("prior-auth") for MiMedx products in medical facilities.

From: Ricky Palmer
Sent: Monday, May 09, 2016 3:15 PM
To: RSD Southwest
Cc: Mike Fox
Subject: VA consignment agreements - ACTION REQUIRED

RSD's,

Attached are both the AVkare and Mimedx VA consignment agreements. For all consignment accounts, please get these signed ASAP so we have no issues moving forward. We will discuss this on the call tomorrow.

Also, if any VA's are telling you that they will need prior auth for grafts under $3500, they are misinformed. If they have this consignment agreement signed, then its business as usual, unless they want to use product over $3500. if so, they will need a prior approval for that tissue. There are some questions and answers on the "frequently asked questions tab" that was provided by the VA. I have also attached the email that was sent out fro Dr. Robbins to all VA DPM's. As you can see, it clearly states, the prior auth is required for implants over $3500.

If pre-purchase accounts...all good. But for consignment tissue, let's get these consignment agreements signed ASAP.

Please run up any accounts that you are having issues with.

Thank you

Ricky Palmer
Area Vice President, Southwest
Cell: 602-321-5807

MiMedx Group, Inc.
1775 West Oak Commons Ct. NE
Marietta, GA 30062
rpalmer@mimedx.com
www.mimedx.com

Figure 65 Extract from email exchange between Ricky Palmer and MiMedx employees dated May 10, 2016

The rush to get consignment agreements is suspicious, as is the push to clarify the need for pre-authorization and whistleblower court documents claim the company exploits the consignment system to place excess stock on shelves.

The scheme was alleged to have occurred in the following manner:

1. Sometime prior to the end of the fiscal quarter sales representatives would be pressured by management to stock shelves at VA hospitals with MiMedx products.
2. MiMedx sales representatives would take it upon themselves to manage inventory control of MiMedx products at VA hospitals, without knowledge or consent of the VA hospital.
3. MiMedx sales reps would place orders for EpiFix and other products on behalf of VA hospitals – without consent of the VA hospitals – even if there was an existing oversupply.

4. At some point later, the product is feathered back to MiMedx, the losses from returns concealed by future revenues.

or

5. The hospital is billed for procedures using MiMedx products that either never happened or were unnecessary.

Note that consignment agreements on inventory are essential to the company's channel stuffing activities as it allows representatives to place inventory on the shelf directly. Due to the relatively small size of MiMedx products, hundreds of thousands of dollars worth of inventory can only comprise of several stacks of small boxes as shown in figure 64.

In response to this, VA employees questioned both the source of the information and clarify that the VA facility still has a "no consignment" policy.

From: Hal Purdy [mailto:HPurdy@mimedx.com]
Sent: Tuesday, May 10, 2016 10:15 AM
To: Jones, Rhonda J.
Cc: Shellman, Elizabeth M.
Subject: Re: [EXTERNAL] Fwd: VA consignment agreements - ACTION REQUIRED

Our company sent to me but it went out Nationally to ***ALL*** VA podiatrist form their Director Dr Jeffery Robbins. He is located at the Louis Stokes VA in Cleveland.

Hal Purdy

From: "Jones, Rhonda J." <Rhonda.Jones2@va.gov>
To: "'Hal Purdy'" <HPurdy@mimedx.com>
Cc: "Shellman, Elizabeth M." <ElizabethM.Shellman@va.gov>, "Farisa, Alexander" <Alexander.Farisa@va.gov>, "Hall, Cassandra D." <Cassandra.Hall@va.gov>
Bcc:
Date: Tue, 10 May 2016 18:07:07 +0000
Subject: RE: [EXTERNAL] Fwd: VA consignment agreements - ACTION REQUIRED

We here at North have not been told under $3500 did not require PREAUTH and our contracting section is still standing on the no CONSIGNMENT rock.

Figure 66 Extract from email exchange between Hal Purdy and VA employee dated May 10, 2016

Understandably the VA employees don't take MiMedx at their word, and further reiterate their position on the consignment issue in these emails.

This comes to a head as MiMedx appears to have jumped the gun and assumed that the VA would either fail to notice or care about a box of AmnioFix. Note that the following email is sent to Purdy's personal email account, not his company account.

From: Jones, Rhonda J.
Sent: Tuesday, June 14, 2016 9:56 AM
To: Hal Purdy (halpurdy@gmail.com)
Subject: AMNIOFIX

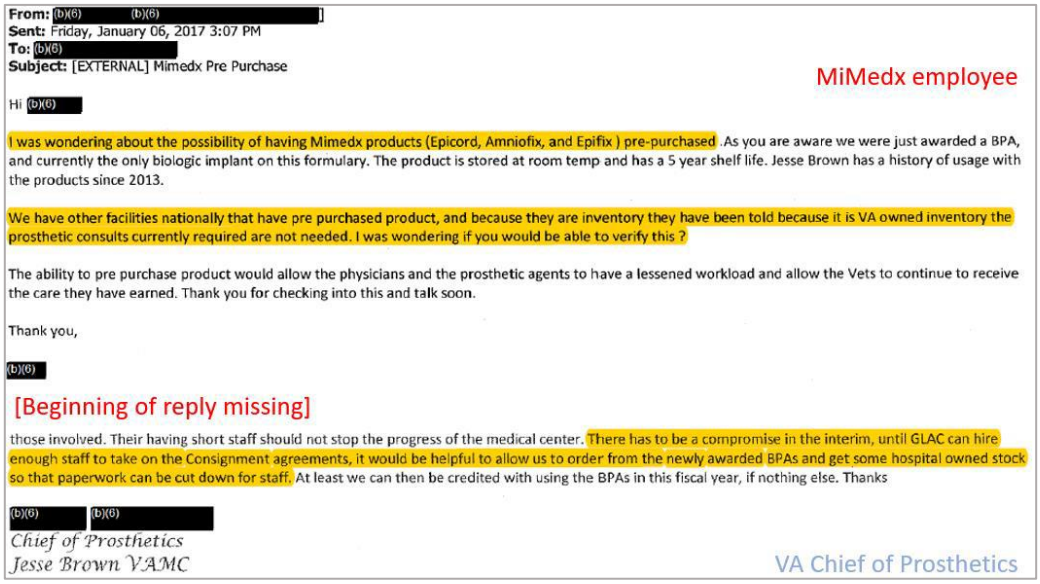
Hal, I just got a call this morning that a box of AMNIOFIX arrived at the Dallas VA w/ no PO#? The warehouse sent the box to my counterpart up by the O.R. and he called inquiring did I have this sent in. I knew nothing about this and had one nurse's name Winston and the vendor was MIMEDX. He said that he was told by the rep that a consignment order would be shipped in overnight and conversation supposedly happened yesterday. You and I have gone over this many times that there is NO LEGAL CONSIGNMENT here currently and until Central Office makes a decision, no product will be shipped in here without PREAUTHORIZATION of stock purchased UP FRONT or by CASE eaches purchased. I asked that the 4 line items be returned to MIMEDX immediately. We will get the clinician what they need, we just need to work together and do it the right way. Please enlighten me of why this was done AGAIN? The time and other folks time to help figure this out is ridiculous. I thought it was very clear the last time we talked of the process. All the clinician has to do is put a consult for a surgery date to order in for the case or IF he wants it stocked on the shelf, we need to get together and I can go over it again. Very frustrated. Please call or email regarding this matter at 903 583 6528.

Figure 67 Extract from email exchange between Hal Purdy and VA employee dated June 14, 2016

Note that these events occurred half a year prior to Purdy leaving MiMedx and the ensuing legal action between the two. The legal action did not involve breaches of VA regulations leading us to believe that MiMedx was aware of this behavior. Further, the email in figure 66 sent by Palmer regarding consignment inventory suggests that similar events played out at VA facilities all over the country.

Emails between MiMedx employees and a VA Medical Facility obtained by Viceroy show:

1. MiMedx sales employees insisting on a consignment agreement and being told repeatedly that this is against facility policy.
2. Details into MiMedx's relationship with AvKare and other distributors, notably using them as a "front" for drop-shipped products.
3. Several cases wherein product was ordered or billed with no record of patients using the product.
4. Fabrication or post-dated creation of 2237 and 1081 forms to justify the above.



From: (b)(6) (b)(6)
Sent: Friday, January 06, 2017 3:07 PM
To: (b)(6)
Subject: [EXTERNAL] Mimedx Pre Purchase

MiMedx employee

Hi (b)(6)

I was wondering about the possibility of having Mimedx products (Epicord, Amniofix, and Epifix) pre-purchased .As you are aware we were just awarded a BPA, and currently the only biologic implant on this formulary. The product is stored at room temp and has a 5 year shelf life. Jesse Brown has a history of usage with the products since 2013.

We have other facilities nationally that have pre purchased product, and because they are inventory they have been told because it is VA owned inventory the prosthetic consults currently required are not needed. I was wondering if you would be able to verify this ?

The ability to pre purchase product would allow the physicians and the prosthetic agents to have a lessened workload and allow the Vets to continue to receive the care they have earned. Thank you for checking into this and talk soon.

Thank you,

(b)(6)

[Beginning of reply missing]

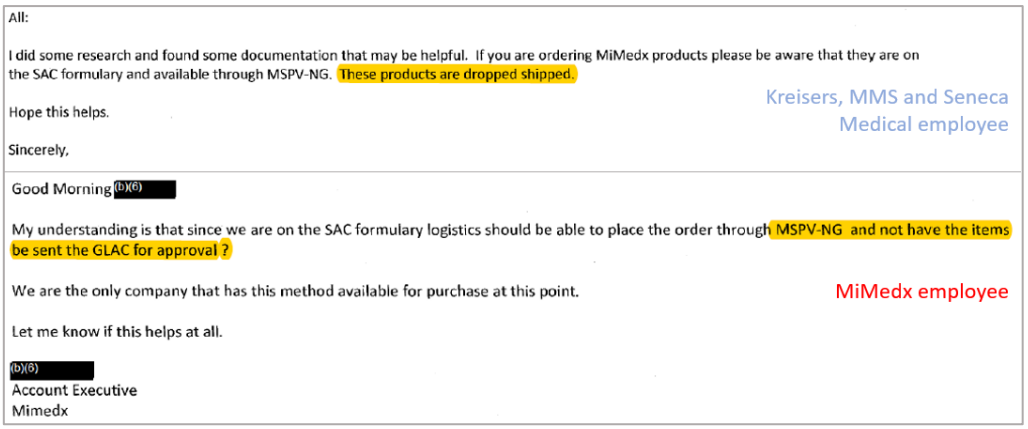
those involved. Their having short staff should not stop the progress of the medical center. There has to be a compromise in the interim, until GLAC can hire enough staff to take on the Consignment agreements, it would be helpful to allow us to order from the newly awarded BPAs and get some hospital owned stock so that paperwork can be cut down for staff. At least we can then be credited with using the BPAs in this fiscal year, if nothing else. Thanks

(b)(6) (b)(6)
Chief of Prosthetics
Jesse Brown VAMC

VA Chief of Prosthetics

Figure 68 Extract from email exchange between MiMedx employee and Jesse Brown VAMC Chief of Prosthetics dated January 6, 2016

In addition to this the MiMedx representative appears to be actively attempting to make sure the stock for the Jesse Brown VAMC does not go through the Great Lakes Acquisition Centre, a fact noticed by a MiMedx distributor: Kreisers, MMS and Seneca Medical.



All:

I did some research and found some documentation that may be helpful. If you are ordering MiMedx products please be aware that they are on the SAC formulary and available through MSPV-NG. These products are dropped shipped.

Kreisers, MMS and Seneca Medical employee

Hope this helps.

Sincerely,

Good Morning (b)(6)

My understanding is that since we are on the SAC formulary logistics should be able to place the order through MSPV-NG and not have the items be sent the GLAC for approval ?

We are the only company that has this method available for purchase at this point.

MiMedx employee

Let me know if this helps at all.

(b)(6)
Account Executive
Mimedx

Figure 69 Extract from email exchange between MiMedx employee and Kreisers, MMS and Seneca Medical employee dated February 10, 2017

As a work-around the MiMedx representative later gives their word to monitor the stock.

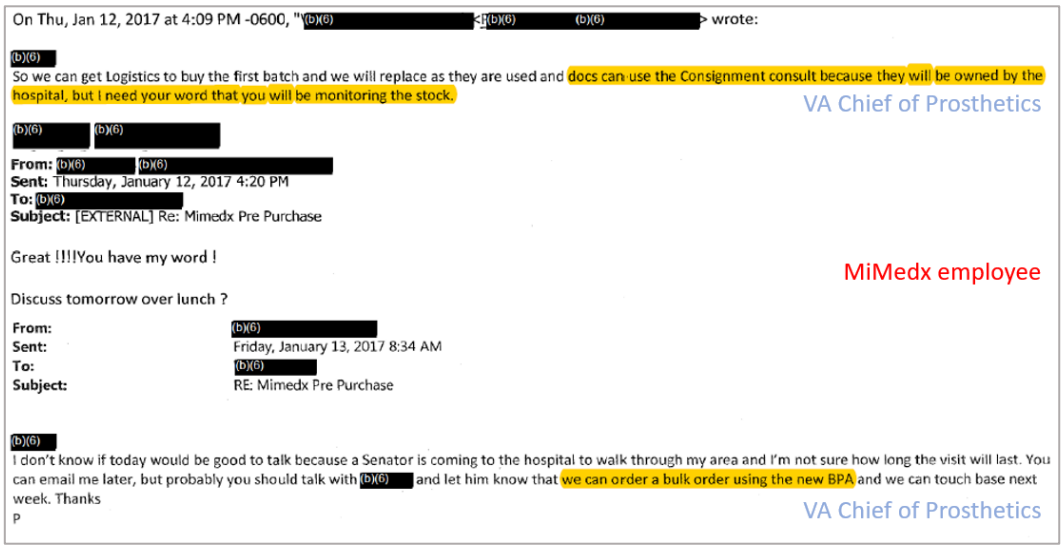


Figure 70 Extract from email exchange between MiMedx employee and Jesse Brown VAMC Chief of Prosthetics dated January 12, 2017

This assurance is later proven false, as phantom patients and orders begin to appear in the system to justify the "uses" of MiMedx product. Further, with little in the way of inventory control, getting paid for the channel-stuffed inventory appears to have become a problem. Viceroy believes as there are no actual patients requiring MiMedx products: there is nothing in the way of patient records to justify payment.

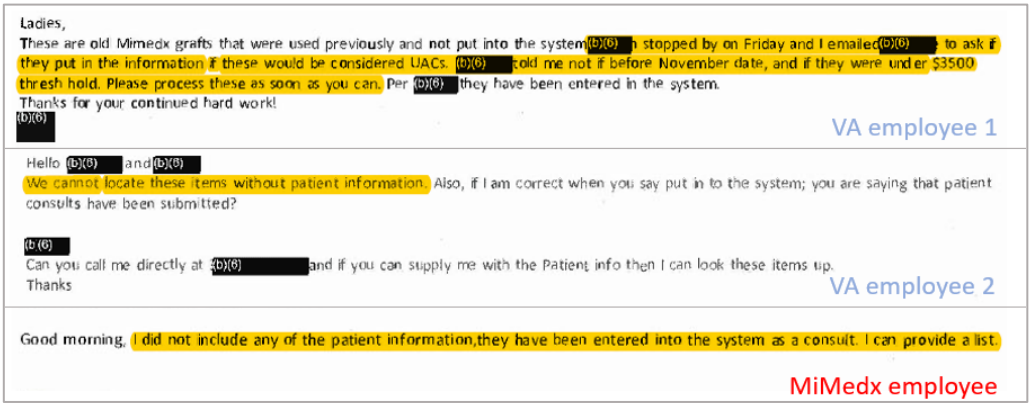


Figure 71 Extract from email exchange between MiMedx employee and VA employees dated May 22, 2017

(b)(6)
I have researched everything and this is what I came up with below. For the most part it looks like the consults were not entered and there are no new consults entered for those people. Please check with the residents to make sure they put the right info.
I put down the closest date of info and what was put on the consult to include the PO that was used for that purchase.

Hope this helps!
(b)(6)

EH41-P1605695-005 2/6/17- BXXXX/ THE ONLY CONSULT SUBMITTED ON THIS DAY WAS FOR epiXL 4x10 EH41-P1605705-022 ON PO Q75517

MI12-20150462-007 2/15/17-BXXXX –THERE WAS NO CONSULT PUT IN AROUND THIS DATE FOR THIS PATIENT

LU35-P1611020-004 2/24/17- DXXXXX- NO PATIENT IN THE SYSTEM WITH THIS NAME

GS16-P1602400-011 2/27/17-RXXXX/ epifix 160 mg MI20-P1611873-007 2021/11/01/ PO Q76970 MIMEDX

AF025-P1613286-011 3/9/17-KXXXXX– only thing put in on 3/8/2017 amniofill 250mg AF025-P1612213-017/ PO Q76821

AF10-P1612273-006 3/24/17- MXXXX ONLY ORDER PUT IN ON THAT DAY WAS FOR Vendor: Mimedx amniofill 1000mg/ PO Q77893 Ref AF-1000 Ser

AF10-P1612273-003

AF20-P1613092-008 3/27/17 RXXXX ONLY CONSULT PUT IN ON THIS DATE WAS FOR:
Mimedix Amniofill 2000 AF-2000 AF20-P1610265-007/ PO Q7809 (b)(6)

GS23-P1608757-004 3/31/17 MXXXXX- THERE WAS NO CONSULT PUT IN ON THAT DATE: THE CLOSEST ENTERY WAS FOR 3/27/2017 Vendor: Mimedx amniofill 1000mg/ PO Q77893 Ref AF-1000

Af10-p1613167-008 4/5/17 PXXXXX-THERE WAS NO CONSULT SUBMITTED PAT 3/27/2017

MI05-P1612877-010 4/7/17 MXXXX / NO CONSULT ENTERY FOR THIS DATE HOWEVER, ON 4/12/2017 THERE WAS A CONSULT SUBMITTED FOR epifix 40 mg EI550 MI5-P1612877-010 (WHICH IS WHAT I THINK YOUR LOOKING FOR) ITWAS SUBMITTED ON PO Q78697(b)(6) (b)(6)

GS44-P1609524-007 4/10/17 FXXXX/ ON 4/10 THERE WAS A CONSULT SUBMITTED (BUT IT HAD INCOMPLETE INFO: epifix 4x gs 5440. THIS WAS ON PO Q78737(b)(6)

VA employee 2

Figure 72 Extract from email exchange between VA employees dated May 22, 2017

For clarity: if there were no consults made on the day, or consults were incomplete then it seems as though payment is not collectable. Note that on February 2, 2017 the hospital system had no patient of that name for a reimbursement claim.

FARS & DFARS

Federal Acquisition Regulation and Defense Federal Acquisition Regulation ("FAR & DFARS") forms are a requirement for any company who wishes to sell their product, even through a third party, to a federal entity.

Prior to the release of Viceroy's first report, FAR & DFARS forms submitted by MiMedx appear to have been submitted by an employee no longer working for the company at the time: Don Ayers.

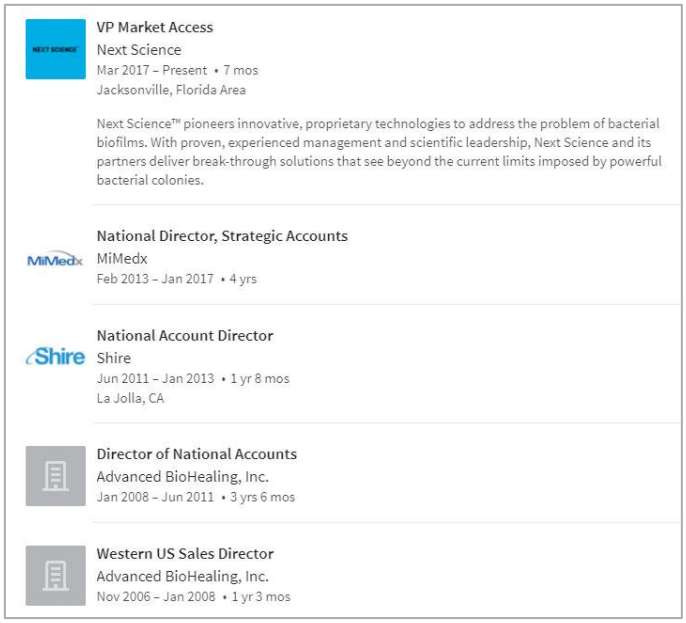


Figure 73 Extract from Don Ayers LinkedIn profile

FAR & DFARS Report

Certification for: MiMedx Group, Inc.
DUNS: 876485496
Certification Validity From:Mon Mar 27 12:13:59 EDT 2017
To :Tue Mar 27 12:13:59 EDT 2018

Donald Ayers had left MiMedx according to his LinkedIn in January 2017 - how is he still there?

I have read each of the FAR and DFARS provisions presented below. By submitting this certification, I, Donald Ayers, am attesting to the accuracy of the representations and certifications contained herein, including the entire NAICS table. I understand that I may be subject to penalties if I misrepresent MiMedx Group, Inc. in any of the below representations or certifications to the Government.

Figure 74 Extract from original MiMedx FAR & DFARS report

Even stranger is that Ayers is listed as the Vice President of Market Access at Next Science in Next Science releases dating as far back as 2015, almost 2 years before he left MiMedx, **while simultaneously being employed at MiMedx:**

Inquiries:
Don Ayers
Vice President, Market Access
855-564-2762
sales@nextscience.com

Figure 75 Extract from Next Science press release[43]

Following the first Viceroy Report, MiMedx retroactively edited its FAR & DFARS reports, changing the MiMedx representative from Don Ayers to Kimberly Durgan. Below is the report after Viceroy's publication.

FAR & DFARS Report

Certification for: MiMedx Group, Inc.
DUNS: 876485496
Certification Validity From:Mon Mar 27 12:13:59 EDT 2017
To :Tue Mar 27 12:13:59 EDT 2018

I have read each of the FAR and DFARS provisions presented below. By submitting this certification, I, Donald Ayers, am attesting to the accuracy of the representations and certifications contained herein, including the entire NAICS table. I understand that I may be subject to penalties if I misrepresent MiMedx Group, Inc. in any of the below representations or certifications to the Government.

By maintaining an active entity registration in SAM, the entity complied with requirements to report proceedings data in accordance with FAR 52.209-7 Information Regarding Responsibility Matters and with requirements to report executive compensation data in accordance with FAR 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards.

FAR 52.203-2 Certificate of Independent Price Determination (Apr 1985)

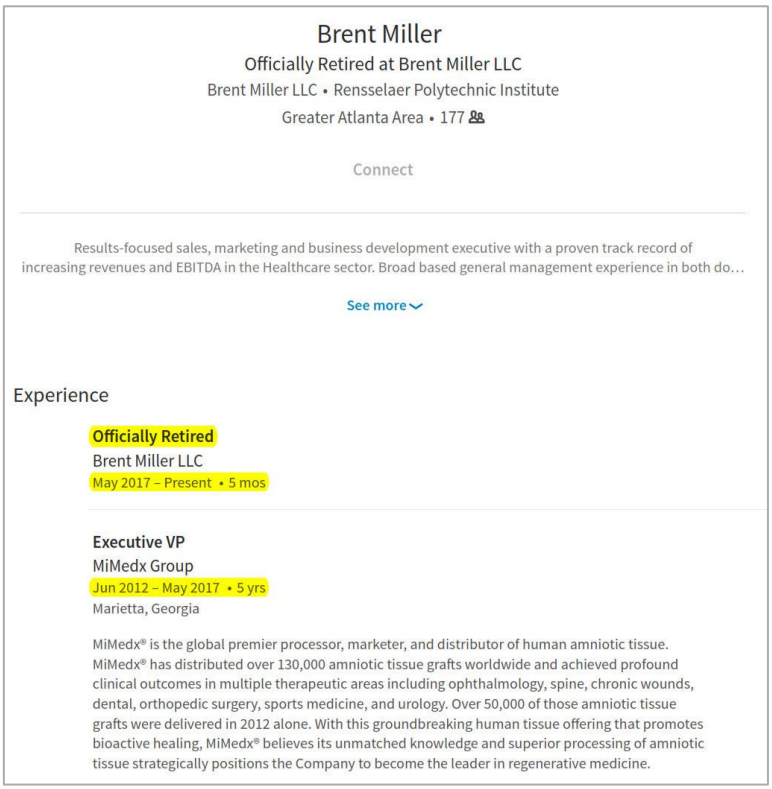
(a) The offeror certifies that-
(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-
(i)Those Prices
(ii)The intention to submit an offer; or
(iii) The methods or factors used to calculate the prices offered.
(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-
(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or
(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision Brent Miller, Exec VP;
(ii)As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and
(iii)As an agent, has not personally participated, and will not participate, in any action contrary to

Figure 76 Extract from revised MiMedx FAR & DFARS report

Note that the above FAR & DFARS report dated March 27, 2017 was authorized by Brent Miller despite Miller's LinkedIn stating he had retired in May 2017.

[43] https://www.nextscience.com/wp-content/uploads/2015/09/Next Science Wolcott Study Press Release 7.12.17.pdf
Note: As of May 11, 2018, the Next Science press release cannot be found



Brent Miller

Officially Retired at Brent Miller LLC

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Results-focused sales, marketing and business development executive with a proven track record of increasing revenues and EBITDA in the Healthcare sector. Broad based general management experience in both do…

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Experience

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Brent Miller LLC

May 2017 – Present • 5 mos

Executive VP

MiMedx Group

Jun 2012 – May 2017 • 5 yrs

Marietta, Georgia

MiMedx® is the global premier processor, marketer, and distributor of human amniotic tissue. MiMedx® has distributed over 130,000 amniotic tissue grafts worldwide and achieved profound clinical outcomes in multiple therapeutic areas including ophthalmology, spine, chronic wounds, dental, orthopedic surgery, sports medicine, and urology. Over 50,000 of those amniotic tissue grafts were delivered in 2012 alone. With this groundbreaking human tissue offering that promotes bioactive healing, MiMedx® believes its unmatched knowledge and superior processing of amniotic tissue strategically positions the Company to become the leader in regenerative medicine.

Figure 77 Extract from Brent Miller's LinkedIn profile

Thus, we question how the change of representative from Ayers to Durgan could have been authorized by him.

MiMedx backdated FAR & DFARS reports dating back to 2013 to include Durgan as signatory however Durgan's employment with the company did not commence until 2014: again, throwing a temporal spanner into the works.

Clearly MiMedx had attempted to quickly and quietly backdate the facts in order to mislead investors as to the validity of Viceroy's report.

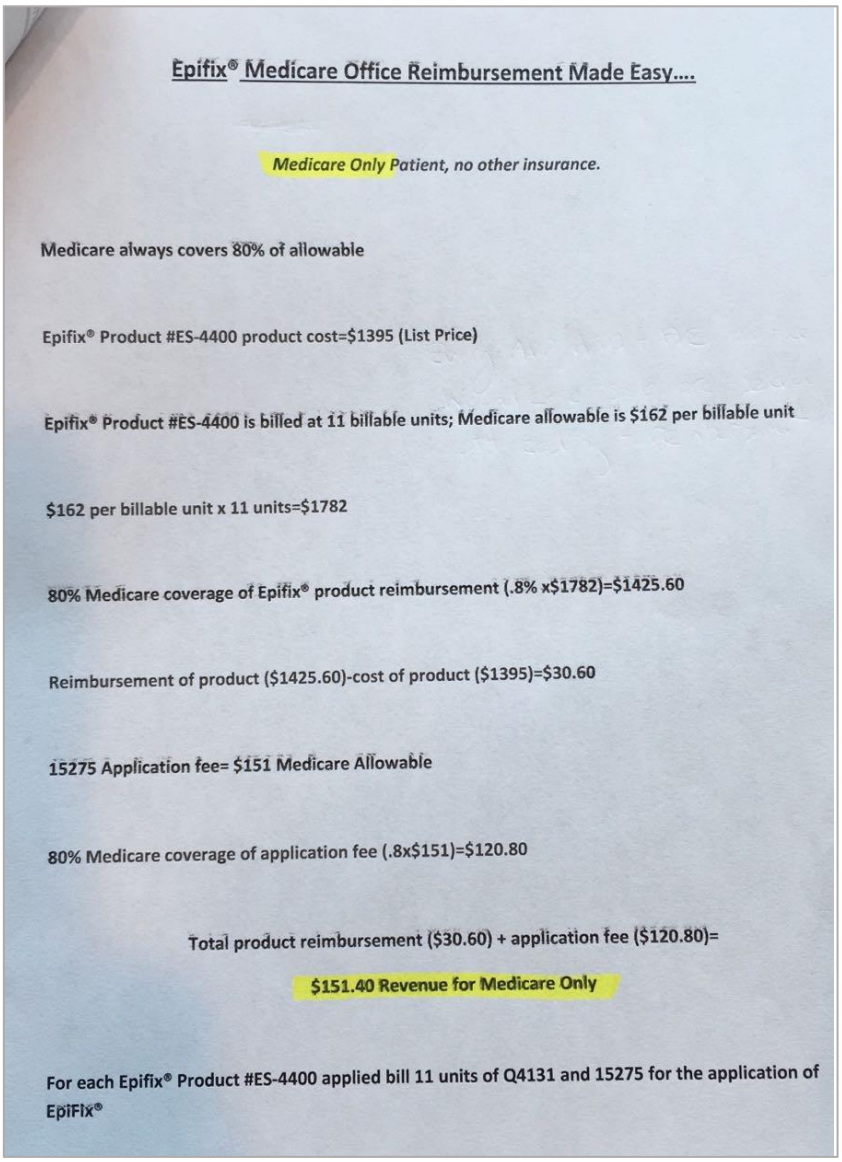
We note that MiMedx will likely have to complete FAR & DFARS once more given the recent events, where VA physicians, who are alleged to concurrently have been acting as MiMedx employees, have been indicted for bribery.

As a result, Viceroy are contacting the General Services Administration OIG today to point out where the FAR & DFARS compliance needs to be reviewed in order to ensure compliance.

Up-Coding and Reimbursement fraud

How does MiMedx market its product? By guaranteeing reimbursement from insurance programs, often in illegal or fraudulent ways. One of these ways is through a process referred to as up-coding, entering a code into a reimbursement system for a more expensive procedure than was performed.

The codes in question are from the Healthcare Common Procedure Coding System ("HCPCS") which determine reimbursement based on the procedure performed. Viceroy obtained MiMedx emails from Regional Sales Director for Western Washington & Alaska Aaron Rosenberger to Vascular Surgical Service Sales Manager Pat Racanelli. The email attachment below shows the calculation of benefits for EpiFix use:



Epifix® Medicare Office Reimbursement Made Easy....

Medicare Only Patient, no other insurance.

Medicare always covers 80% of allowable

Epifix® Product #ES-4400 product cost=$1395 (List Price)

Epifix® Product #ES-4400 is billed at 11 billable units; Medicare allowable is $162 per billable unit

$162 per billable unit x 11 units=$1782

80% Medicare coverage of Epifix® product reimbursement (.8% x$1782)=$1425.60

Reimbursement of product ($1425.60)-cost of product ($1395)=$30.60

15275 Application fee= $151 Medicare Allowable

80% Medicare coverage of application fee (.8x$151)=$120.80

Total product reimbursement ($30.60) + application fee ($120.80)=

$151.40 Revenue for Medicare Only

For each Epifix® Product #ES-4400 applied bill 11 units of Q4131 and 15275 for the application of EpiFix®

Figure 78 Scan of MiMedx reimbursement document

MiMedx claims that they have a team which deals with reimbursement related questions: yet fail to answer why **two members of a sales team** are sending and receiving this email.

> Additionally, sales representatives are not allowed to give any reimbursement advice by policy and training. MiMedx has a staff of experienced reimbursement specialists that are separate from the sales department and will assist providers with questions regarding MiMedx products. If the provider desires, they can contact the MiMedx reimbursement department to

Figure 79 Extract from MiMedx response "VILLAGE PODIATRY COMMUNICATIONS PART 2" dated November 26, 2017

Former employees and physicians have corroborated that the reason for these documents is that MiMedx's surgical line is not covered for reimbursement. EpiFix, however, is covered.

MiMedx makes liberal use of guarantees of reimbursement as shown in the supporting documents in their legal action against Mad River Community Hospital ("Mad River").

13. Beginning in or around November 2014, Mad River stopped paying for the EpiFix® and AmnioFix® product it was ordering.

14. Mad River continued ordering and receiving products from MiMedx through March 2015, but never paid MiMedx after November 2014. A true and correct copy of a chart listing the unpaid invoices is attached hereto as "Exhibit 3."

15. MiMedx duly and fully performed all obligations required of it under the MiMedx Invoices, except to the extent that any such obligation was excused by the conduct of Mad River.

16. As a result of MiMedx's provision of EpiFix® and AmnioFix® products, Mad River owes MiMedx $240,062. Mad River continues to owe this amount to MiMedx for goods provided, but has refused to pay it despite demand therefor.

Figure 80 Extract from MiMedx v. Mad River[44]

Mad River stopped paying MiMedx for product around November 2014 but **continued to order and receive product through to March 2015**, as stated in MiMedx's claim below. Compared to alleged turnover the amount owing is small at $240,062.

FOURTH AFFIRMATIVE DEFENSE

(Failure of Consideration)

4. Defendant is informed and believes, and based thereon alleges, that any failure of defendant to perform resulted from plaintiff's failure to fully and accurately disclose reimbursement rates for plaintiff's product, which was a condition precedent of defendant's performance. As a result, defendant rescinded the contract and offered to restore to plaintiff everything received under the parties' agreement.

Figure 81 Extract from MiMedx v. Mad River

We believe MiMedx aggressively "markets the spread": their greatest selling point is the above-cost amount of reimbursement their products entail, not the quality of such products. As such, full payment for MiMedx products is only due once reimbursement has been paid to the buys by the patient's insurer.

In what must've been "good business acumen" at work, MiMedx representatives allegedly went to the Mad River facility in surgical scrubs and told physicians and other employees that MiMedx products had been approved for use.

8. Beginning in or about 2013, plaintiff's sales representatives traveled to defendant's campus. Plaintiff's sales representatives circumvented defendant's well-established procurement procedures, repeatedly misrepresenting to physicians and defendant's employees that plaintiff's products had been approved by defendant's purchasing department and donning scrubs while on campus so as to give the impression of contemporaneous involvement with defendant's surgical team.

Figure 82 Extract from MiMedx v. Mad River

Note that these products were considered experimental and **un-reimbursable** by several insurers.

[44] Case 4:16-cv-02039-HSG Document 1 Filed 04/18/16

10. Defendant relied on plaintiff's representations in using plaintiff's products over other available products on the market.

11. Only after the products were used on patients were invoices sent to defendant for the products, which bills defendant paid until it became clear that plaintiff had misrepresented the reimbursement rates for its products, including but not limited to (1) failing to disclose that the use of plaintiff's products for in-patient stays was other than the rate for out-patient stays and (2) that some patient insurers considered plaintiff's products experimental and un-reimbursable.

Figure 83 Extract from MiMedx v. Mad River

When the reimbursement rates are not "as advertised" by MiMedx, the company sent several "billing specialists", which Mad River allege were sent to stall while more invoices piled up.

13. When reimbursement rates for plaintiff's products were other than those promised by plaintiff, defendant asked for assistance from plaintiff's sale representatives. Plaintiff responded by sending a "billing specialist" to defendant's campus in January 2015. Although plaintiff's billing specialist and defendant's billing staff spent three days together reviewing records, plaintiff's billing specialist identified nothing defendant needed to do differently in order to receive the billing rates promised by plaintiff. In late 2015, plaintiff sent a second team to defendant's campus, this time two more billing specialists to determine if the reimbursement rate received by defendant was accurate. Defendant is informed and believes that the purpose of the billing specialists' visits was to prevent defendant from recognizing the misrepresentations by plaintiff and to ensure defendant continued to use plaintiff's product so that plaintiff could amass high sums in invoices before the misrepresentations were revealed to defendant.

Figure 84 Extract from MiMedx v. Mad River

4. Managerial Incompetence

Change of Auditors

Cherry Beckaert identification of material weakness in financial controls

MiMedx's auditors, Cherry Bakaert, **identified a material weakness in the company's financial controls** in the period ending 31 December 2016:

Material weakness: In reviewing the Company's tax accounting in preparation for filing this Form 10-K, our management identified a deficiency in our internal control over financial reporting that is described below in Management's Annual Report on Internal Control Over Financial Reporting. Our management has concluded that this deficiency constitutes a material weakness in our internal control over financial reporting related to our accounting for income taxes. This material weakness did not result in a material misstatement of the Company's annual financial statements for the year ended December 31, 2016. However, management concluded that this material weakness, if un-remediated, could have resulted in a material misstatement of the Company's annual or interim consolidated financial statements that would not have been prevented or detected by our internal controls. Accordingly, management determined that this control deficiency constituted a material weakness. We have developed a remediation plan for this material weakness, which is described below.

Figure 85 FY 2016 - Evaluation of disclosure controls and procedures[45]

Fortunately for MiMedx, this material weakness was picked up by auditors. Viceroy believes that material weaknesses in financial controls are a major red flag and significantly increase audit risk. This is especially the case when after six months, MiMedx had still not remediated its material weakness in internal controls:

[45] FY 2016 financial statements – pg. 80

When fully implemented and operational, we believe the measures described above will remediate the material weakness we have identified and generally strengthen our internal control over financial reporting. The material weakness will not be considered remediated until the applicable remedial controls operate for a sufficient period of time and management has concluded, through testing, that these controls are operating effectively. Our goal is to remediate this material weakness by the end of the 2017 fiscal year, subject to there being sufficient opportunities to conclude, through testing, that the enhanced control is operating effectively.

Figure 86 Q2 2017 - Evaluation of disclosure controls and procedures[46]

Viceroy finds it concerning that MiMedx proceeded to replace its auditors in the midst of this internal control issue

Item 4.01 **Changes in Registrant's Certifying Accountant**

(a) The Audit Committee (the "Committee") of the Board of Directors of MiMedx Group, Inc. (the "Company") recently conducted a competitive selection process to determine the Company's independent registered public accounting firm for the fiscal year ending December 31, 2017. The Committee invited several public accounting firms to participate in this process. As a result of this process, the Committee approved the appointment of Ernst & Young LLP ("Ernst & Young") as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2017 effective August 4, 2017. This action effectively dismissed Cherry Bekaert LLP ("Cherry Bekaert") the Company's independent registered public accounting firm for the fiscal year ended December 31, 2016, as the Company's independent registered public accounting firm as of August 4, 2017.

Figure 87 Change in MiMedx accountant – Form 8-K[47]

Cherry Bekaert had audited MiMedx since 2008.

Subsequent internal investigations

On 20 February 2018, MiMedx announced that it would not be able to present its annual filings for FY 2017 in time and engaged KPMG and King & Spalding to commence an independent internal investigation into MiMedx sales practices[48].

We believe this is clear indication that newly appointed auditors EY were not prepared to sign off on MiMedx's accounts.

Interestingly, this investigation had already been conducted by Parker H. Petit's fraternity brother and independent director, Terry Dewberry, in March 2017[49]. MiMedx were given the all clear in this entirely non-independent investigation.

Sales Distributors vs Agents

MiMedx makes an obscure distinction between sales agents and distributors; the deciding factor appearing to be whether or not the third-party physically holds & distributes MiMedx product.

For the education of all involved (but mostly Viceroy), distributors are customers of a company. They purchase and hold inventory, then re-sell that inventory to an end user. Sales Agents are just that, a sales person, and they do not take title to any product. Sales Agents are not customers of a company as they do not purchase product, nor hold any inventory. They do receive a commission on sales that they broker. The company receives orders from, and ships product directly to the end use customer.

Figure 88 Change in MiMedx accountant – Form 8-K[50]

[46] Q2 2017 financial statements – pg.32
[47] MiMedx Group Form 8-K – August 4, 2017 – Changes in Registrant's Certifying Accountant pg. 2
[48] https://mimedx.gcs-web.com/news-releases/news-release-details/mimedx-postpones-release-its-fourth-quarter-and-fiscal-year-2017
[49] https://mimedx.gcs-web.com/news-releases/news-release-details/mimedx-audit-committee-announces-completion-its-investigation
[50] MiMedx Group Form 8-K – August 4, 2017 – Changes in Registrant's Certifying Accountant pg. 2

Viceroy had sourced data directly from the FDA's Human Cell & Tissue Establishment register, which clearly show sales are being made to (or through) entities that are registered as both distributing and storing MiMedx product.

Our earlier reports include extracts from the FDA showing 2016 "sales agents" were registered as holders and distributors of, specifically MiMedx stock. There are numerous other entities in the 2016 MiMedx sales document which are registered to store and distribute amniotic membrane products, however manufacturers are unspecified.

The distinction is important because in an attempt to dismiss the extent of any fraud at the third-party vendor level, MiMedx consistently claimed that sales ***distributors*** only made up 5% of total sales. While this may be true, it is semantics, as sales ***agents*** make up substantially more.

Third Quarter 2017 Revenue Highlights

- ***Q3 2017 revenue of $84.6 million exceeded MiMedx guidance range of $79 to $80 million***
- ***Q3 2017 revenue grew 31% over Q3 2016 revenue***
- ***First nine months of 2017 revenue grew 33% over first nine months of 2016***
- ***Distributor and OEM revenue was below 5%***
- ***Accounts receivable DSO down to mid-60s***

Figure 89 MiMedx Q3 results announcement – Form 8-K[51]

Matria Healthcare

Petit and his managerial team were quick to bring up their track record of excellence. We believe it was the influence of Petit and his associates which led to a collapse of Matria Healthcare's ("Matria") share price due to earnings downgrades and revisions of future performance.

Matria was also the subject of an Off Wall Street short report, and the company sold as well-below its peak 2008 price for a 50% haircut in 2014. In addition to this the company faced a shareholder class action and two whistleblower lawsuits.

The shareholder lawsuit filed against Petit and others alleged:

1. Information regarding Matria's IT system's shortcomings was withheld from shareholders
2. Petit controlled the company during a time in which he was in no position to do so: failing to disclose these facts to shareholders.
3. Petit ignored counsel from senior staff in favor of purchasing an inappropriate IT solution from a company in which he had an interest.
4. The above was done after consultation from another Petit-controlled entity
5. Petit and others conspired to artificially support and inflate Matria's stock price to secure performance incentives including forgiveness of loans.

The shareholder class action and whistle-blower suits revolved around Matria's IT operations and choice of IT solutions: both of which were allegedly sabotaged by Petit for the benefit of himself and his associates. The case revolves around the Confer, Emerge and Cloverleaf products.

According to statements from company employees, the **Confer** system was recommended to Matria by an **"outside consultant" from Healthcare.com.** Note that this decision was not supported by Matria personnel familiar with the problems it was supposed to fix.

[51] MiMedx Group Form 8-K – October 11, 2017

72. CW-4 also explained that a person from Healthcare.com, a company in which Petit was a major shareholder, was regularly at Matria in early 2000 and Petit regularly discussed with that person how to make Confer work. CW-4 stated that the person from Healthcare.com was involved in the decision of Matria to purchase the Confer software as the basis for the sought after enterprise solution. This decision, as CW-5 explains below, ultimately became known as the "Confer Fiasco."

Figure 90 Extract from Barr et al v. Matria, Petit, Koepsell & Dunaway[52]

Matria also acquired two other software solutions from HIE; CloverLeaf and Emerge. At least one of these solutions was not installed more than a year and a half after its purchase (if ever) due to problems in Cloverleaf.

87. As Matria announced in its March 30, 2000 press release, the Emerge and Cloverleaf products obtained from Healthcare.com were intended to work with Confer to "support the Enterprise-wide platform for Matria's Women's Health, Diabetes and Cardiology divisions and as comprehensive disease management programs spanning the Matria divisions." As CW-5 explained, the goal was to enable Matria's employees to pull up all available information on a given patient from their desktop, and across the multiple disease states that Matria managed. Due to problems with the Confer-based system, however, the Emerge enterprise solution was never realized and was not installed, at least not by the end of 2001.

Figure 91 Extract from Barr et al v. Matria, Petit, Koepsell & Dunaway

Confer, together with Healthcare.com were subsequently acquired by X-care.net with Pete Petit becoming a substantial investor of X-care.net in early 2001 as a result:

245. On May 14, 2001, an entity named XCare.net issued press releases announcing that it signed agreements to acquire both Confer and Healthcare.com. As disclosed in XCare.net's August 8, 2001 Form S-1, Petit owned 856,011 shares of Healthcare.com, or approximately 3% of that company. After the merger, Petit was a substantial shareholder of XCare.net.

Figure 92 Extract from Barr et al v. Matria, Petit, Koepsell & Dunaway

These issues came to a head in early 2002 when Matria was forced to issue an earnings warning for Q4 of 2001: as a result, the share price declined 28%. Later, in June 2002 Matria announced a disappointing outlook for 2002 and 2003 citing IT system obsolescence and difficulty implementing IT systems. The stock price dropped from $12 to ~$4.

[52] CIVIL ACTION FILE NO.1 :03-CV-2007

Figure 93 Chart of Matria Healthcare's share price

The events above are pertinent as they not only involve Petit but also MiMedx board member Joseph G Bleser and Executive Vice President Debbie Dean.

Bleser was engaged in several high-level positions at the Healthcare.com/Confer entity Quovadx: CFO, director and executive vice president from 1995 to 2004, and an independent financial consultant from 1998 to 2004.

An HIE company release shows Dean as Senior Vice President of Research and Development on September 27, 1999. Petit was serving as Chairman of the Board of Directors at Healthcare.com during the time Emerge was being developed.

The above shows that Dean would have been at least aware of the dealings between Healthcare.com/HIE, Quovadx and Matria Healthcare. In addition to this, Petit and Bleser must both have known to some extent the capabilities & drawbacks of the Emerge system or easily been able to gauge them.

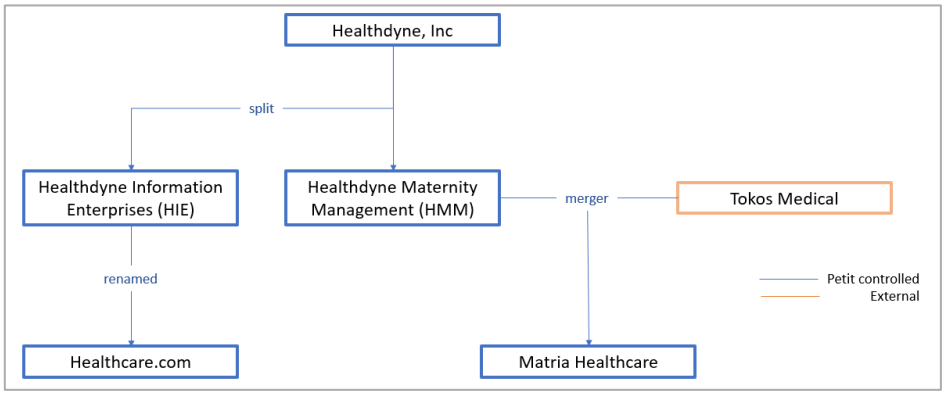


Figure 94 Chart of Healthdyne, Inc organization

Misleading Shareholders

Stability Biologics

Stability was acquired in January 2016 for US$10m (US$6m in cash, US$4m in stock) plus an earn-out consideration.

According to the company's 2016 accounts, the company would have contributed US$17m to sales on a pro-forma 2015 basis. This positive sentiment regarding the acquisition was echoed by management's indication that revenue growth in 2016 was largely due to the Stability acquisition.

The relationship between the two companies appears to have soured around a US$3.5m return of expired/returned inventory and concerns about Stability's manufacturing processes.

During the measurement period, management determined that the initial PFI should be adjusted to better reflect an expected case from a market participant's perspective. At the time of the acquisition, management believed that certain of the acquired company's products had reached certain marketability milestones. Management subsequently concluded that these milestones had indeed not yet been achieved. Also, at the time of the acquisition Management believed that certain manufacturing processes were at standards aligned with our overall company standards. Management subsequently concluded that the standards required improvements. These factors have resulted in a lower revenue trajectory in the periods that apply to the earn-out thus reducing the fair value of the earn-out.

15. Related Party Transactions

On January 13, 2016, when the Company completed the acquisition of Stability Inc., d/b/a Stability Biologics ("Stability") there was an assumed payable of $5,954,555 to a related party. The Company made payments of $1,361,030 during 2016. The payable was further reduced by $3,367,250 as a result of the return or destruction of expired inventory. The outstanding payable at 12/31/16 is $1,226,275 and is included in Accounts Payable. The related party is a limited liability company that is controlled by a former stockholder of Stability Inc. who is now an employee of the Company.

Figures 95 & 96 Extract from MiMedx 2016 10-K

Also of concern to Viceroy were the extremely generous terms of Stability's earn-out agreement. Stability shareholders were entitled to the combined 2016 and 2017 gross profit of:

1. Stability products sold by Stability personnel.
2. Stability products sold by MiMedx personnel.
3. MiMedx products sold by Stability personnel.

Astute readers will point out that this leaves very little reason to acquire the business in the first place, considering the high margins of both MiMedx and Stability products.

This earn-out agreement, which we regard as **the most generous of its kind we have seen** was never paid out. MiMedx threatened to sue Stability shareholders regarding a breach of representation, agreeing to indemnify them if earn-out fees were offset against losses due to those breaches.

The Stability business was sold back to its founder Brian Martin for US$3.5m in promissory notes secured against Stability assets: almost entirely consisting of "Customer Relationships" and "Patents and Know-How". At the time of Stability's acquisition by MiMedx, it had a net tangible asset deficiency of US$1.9m.

Since the original publication of this information Osiris Therapeutics, for whom Stability used to sell product, has commenced legal action against MiMedx. Osiris allege that MiMedx did not honor substantial payables due to Osiris after the time of the acquisition and purposefully left remaining Osiris inventory to expire in their warehouse, essentially knee-capping the competition.

9. Due to MiMedx's influence, the Distributor did not sell $2.2 million of Osiris's products that it had acquired from Osiris before the merger, and those products subsequently expired in the Distributor's warehouse. After the merger, MiMedx and the Distributor, under MiMedx's direction, refused to reimburse Osiris for the expired products.

10. Before the merger, Osiris had pre-paid the Distributor $1.28 million in commissions for products the Distributor took possession of and was supposed to sell. However, after the merger, the Distributor – now under MiMedx's control – did not sell Osiris's products and did not repay the commissions it received for those products, causing an additional loss to Osiris of $1.28 million.

12. In March 2016, MiMedx also instructed the Distributor, its wholly owned subsidiary, to cease making payments it owed to Osiris under a September 2015 payment plan related to the sale of Osiris's Ovation product to an entity related to the Distributor. As a result, Osiris suffered a loss of $2,950,075.

13. Osiris attempted to recover the money owed and negotiated in good faith with MiMedx and its wholly owned Distributor. However, due to MiMedx's interference, Osiris was unable to recover its loss of $6,430,075.

Figures 97 & 98 Extract from Osiris Therapeutics v MiMedx[53]

Further, whistleblowers have advised that MiMedx induced Stability to report Osiris' misdeed to the regulators in return for financial compensation in the form of a takeover of their operations:

In January of 2015 there was a handshake deal that if Stability would come forward to the SEC about the Osiris misdeeds, that the Stability leadership would be paid off by the MDXG shareholders through a purchase of Stability. The agreement was that once Stability reported the Osiris fraud to the SEC, MDXG would agree to buy Stability in early 2016. This purchase would include millions paid to the Stability leadership.

Figures 99 Whistleblower correspondence in relation to MiMedx's acquisition of Stability[54]

Luis Aguilar

MiMedx's 19 March 2017 PRNewswire release was boastful of Aguilar's career & credentials, the entirety of which allegedly would be too long to list:

also served as the primary sponsor of the SEC's first Investor Advisory Committee. Mr. Aguilar has received various honors and awards too long to list in this press release. Some of those distinctions include:

Figure 100 Extract from MiMedx PR Newswire release "MiMedx Announces The Addition Of Luis A. Aguilar To Its Board Of Directors" dated October 6, 2016[55]

Viceroy's investigation revealed Aguilar was involved in an investigation by the Securities and Exchange Commission Office of the Inspector General ("SEC OIG") related to his communication of non-public information to Reuters reporter Sarah Lynch:

[53] Case 1:18-cv-00950-CCB – Filed 2 April 2018
[54] http://petiteparkerthebarker.com/wp-content/uploads/2018/04/0060_180404035721_001.pdf
[55] https://www.prnewswire.com/news-releases/mimedx-announces-the-addition-of-luis-a-aguilar-to-its-board-of-directors-300425866.html

1. **Commissioner Luis Aguilar**

A review of Commissioner Aguilar's desk telephone records disclosed four calls placed to one of Lynch's telephone numbers between September 12 and 19, 2013, including one telephone call made approximately 35 minutes after the conclusion of the Executive Session on the J.P. Morgan matter.[1] *See* September 24, 2013, MOA, Review of Commissioner Aguilar's Telephone Call History.

Specifically, we noted outgoing calls to Lynch on September 12, 2013, at 3:50 p.m.; September 13, 2013, at 11:11 a.m.; and September 16, 2013, at 6:06 p.m. *Id.* The OIG's review disclosed that each of these calls showed a duration of zero (0) minutes.[2] *Id.* The OIG noted an additional outgoing call to Lynch on September 19, 2013, at 4:58 p.m., which lasted 26 minutes, 1 second. *Id.* Commissioner Aguilar told the OIG that he could state with "pretty high certainty . . . at least 99.99% sure" that he did not talk to Lynch about the J.P. Morgan deliberations and voting results from the September 12, 2013, Executive Session. *See* October 9, 2013, MOA, Interview of Commissioner Aguilar.

A September 17, 2013, email from Lynch to Commissioner Aguilar, at 1:36 p.m., stated, "Good to see you today, however brief," indicating that he saw Lynch on that day. *See* October 9, 2013, MOA, Email Search. According to building access records, Lynch was in the SEC headquarters building for an Open Meeting on September 17, 2013. *See* December 5, 2013,

Figure 101 Extract from SEC OIG Report of Investigation[56]

Aguilar also sent emails containing non-public information to his personal email account, claiming it was "not a problem" in his view.

Commissioner Aguilar stated that he did not view sending nonpublic SEC information to his personal email account as a problem and was not aware that doing so violated the SEC's Rules of the Road. *Id.* However, the OIG determined that Commissioner Aguilar had completed annual Security and Privacy Awareness Training, most recently on September 10, 2013, that discussed the Rules of the Road and, specifically, the prohibition on sending nonpublic information to personal email accounts. *See* January 14, 2014, MOA, Receipt of Cybersecurity Training Materials.

Figure 102 Extract from SEC OIG Report of Investigation

In summary: despite having annual Security and Privacy Awareness Training just 12 days prior specifically with "the prohibition on sending nonpublic information to personal email accounts", Aguilar did not view sending nonpublic SEC information to his personal email account as a problem.

The Advanced BioHealing hires

Advanced BioHealing operated a kickback and bribery sales inducement scheme which resulted in the largest settlement of a False Claims Act to date of $350m, and a $600m write down by Shire when it was later sold.

17. Advanced Biohealing management directs a pervasive scheme to provide numerous types of illegal remuneration to physicians and their office staff in return for (1) those physicians purchasing Dermagraft to use on Medicare patients in the treatment of diabetic foot ulcers, and (2) physician office staff providing Advanced Biohealing with patients' protected health information so that Advanced Biohealing can perform insurance verifications to determine how much Medicare would pay for Dermagraft on specific patients.

Figure 103 Extract from United States of America ex rel. Vinca & Sweeney v. Advanced BioHealing[57]

At least 54 Advanced BioHealing alumnus have been identified by Viceroy within MiMedx's sales force, including at least 15 in senior employment positions. None of these employees, despite their seniority, appeared on public MiMedx documents prior to Viceroy's first report.

[56] CASE# OIG-601

[57] Case 8:11-cv-00176-JSM-MAP Document 2

18. These various types of inducements provided by Advanced Biohealing to physicians include:

A. Providing free medical supplies to physicians;

B. Providing tickets to sports games and Cirque de Soleil performances to physicians;

C. Providing free weekends at expensive resort locations to physicians;

D. Providing free scrubs to physicians;

E. Providing cameras to physicians to use to take photos of patient wounds for use in case studies for which physicians could be paid by Advanced Biohealing;

F. Providing free mailers and postage to promote physician practices;

G. Providing liquor to physicians and their office staff;

H. Providing edible fruit arrangements to physicians and their office staff;

I. Providing gas cards to physicians and their office staff;

J. Providing Starbucks, Bonefish Grill, Applebees, 7-11 and other restaurant gift cards to physicians and their office staff;

K. Providing American Express, Visa and Blockbuster gift cards to physic ans and their office staff;

L. Providing physicians with free insurance verification forms indicating the reimbursement available to physicians for application of Dermagraft to specific patients to encourage and motivate physicians to apply Dermagraft;

M. Providing a guarantee to physicians that they will not have to pay Advanced Biohealing for the full price of Dermagraft purchased if a patient's insurer does not reimburse the physician at the amount predicted by Advanced Biohealing;

N. Providing physicians "scrap credits" or rebates for unused pieces of Dermagraft;

O. Providing physicians with ghost-written letters of medical necessity;

P. Providing physicians with draft dictation language and progress notes to be included in patient charts to justify using Dermagraft;

Q. Providing physicians with free business development kits; and

R. Providing physicians with free "case studies" which physicians use in marketing to referring physicians, home health agencies and assisted living facilities.

Figures 104 & 105 Extracts of United States of America ex rel. Vinca & Sweeney v. Advanced BioHealing

Viceroy believes the similarity between the channel-stuffing activities at Advanced BioHealing and those being carried out at MiMedx highlight the significance of these hires. In particular the employment of Sean McCormack as Director of New Market Initiatives at MiMedx.

Figure 106 Extract from Sean McCormack LinkedIn profile

McCormack was named but never convicted of his role in Advanced BioHealing's channel-stuffing initiatives, including providing to inducements to physicians:

19. Many of these inducements were directed by National Sales Director Sean McCormack. Others were directed by Regional Manager Pete Goodwyn.

Figure 107 Extract from United States of America ex rel. Vinca & Sweeney v. Advanced BioHealing

…and conducted training along with others named in the proceedings:

ABH's Remuneration-Based "Marketing" Program

56. Harvey worked for ABH for just over one year. During that time, he witnessed rampant use of remuneration by ABH sales representatives.

57. Upon joining the Company, he attended a training conducted by Keith O'Briant, Tony Ezell, and Sean McCormack.

Figure 108 Extract from United States of America ex rel. Harvey v. Advanced BioHealing[58]

5. Aggressive anti-whistleblower retaliation

MiMedx has proven time and time again that the company does not tolerate whistleblowers:

1. The company is extremely litigious against current and former employees who wish to blow the whistle on the company's practices
2. The company Machiavellian approach to "Dear Pete" letters: often firing or reprimanding individuals who believe management should be informed of the illegality of their actions
3. The company enforces extremely aggressive non-compete agreements, effectively preventing employees from finding work elsewhere and discouraging raising issues.

MiMedx has repeatedly punished whistleblowers, both those who report internally and more damningly, to the SEC. Viceroy believes the company has a long list of scorned ex-employees who have potentially damaging information about the company and its fraudulent practices.

Kruchoski/Tornquist saga

Former MiMedx regional sales director, Jess Kruchoski, and his subordinate Luke Tornquist blew the whistle on MiMedx's channel stuffing activities in late 2015 claiming that in the last month of 2015, US$10m of unordered and unneeded MiMedx product was on VA shelves.

27. In the last month of 2015, over $10 million of MiMedx products was sitting on VA hospitals' shelves, which the hospitals had neither bought nor requested.

Figure 109[59]

Emails between Kruchoski and MiMedx management show that despite making his sales target, the company refused to pay his performance incentives. After expressing concerns regarding management calls to engage in aggressive channel stuffing activity, Kruchoski was informed he would not be considered for promotion.

In November 2016, Kruchoski and Tornquist submitted a joint report to MiMedx upper management and legal counsel regarding MiMedx's fraudulent revenue recognition from channel stuffing activities. In effect, Kruchoski and Tornquist had just signed up for heavy and long retaliation from MiMedx.

What followed was a concerted attack by the company in which MiMedx and its upper management:

[58] Case 8:16-cv-00303-JSM-TBM Document 1
[59] Case 1:17-cv-00577-LMM Document 1

1. Asked Kruchoski and Tornquist to reconsider their submission, being told to "think about their families" and that "it would not be good for them" to submit their report.
2. Placed Kruchoski on an employee performance plan that threatened termination, against company protocols.
3. Took steps to replace Kruchoski with one of his subordinates
4. Removed a sizeable area of commissionable geography from Kruchoski
5. Asked other employees about any alleged misconduct by Kruchoski and Tornquist.
6. Terminated both Kruchoski and Tornquist, before filing a lawsuit against both the next day for allegedly publishing false information.

Mike Fox

Almost immediately after the company's actions against Kruchoski and Tornquist above, MiMedx also fired and commenced proceedings against their supervisor Mike Fox, allegedly for sale of competing products while he was at MiMedx. Not only was Fox dismissed, but all or most of the staff he was supervising.

Fox was also subject to a retroactive pay downgrade to the state's minimum wage of US$8.25 an hour and an effective revocation of vested options.

96. Kuntz informed Fox during this call that the Company was terminating his employment for cause. He further informed Fox that MiMedx was unilaterally and retroactively reducing Fox's rate of pay for the last nine days of his employment to the Illinois minimum wage of $8.25 per hour.

97. Kuntz also told Fox during this call that Fox would only have until the end of the day to exercise those vested options he had been awarded pursuant to the Plan. When Fox pointed out that it was past 6:00 p.m. on the East Coast and the stock market was closed, Kuntz replied: "Exactly."

Figure 110 Extract from Fox v. MiMedx

Not content to fire Fox and deny him his share-based compensation, MiMedx began proceedings against Fox's new employer CPN BioSciences for violation of MiMedx's non-compete agreement in hiring Fox. After several months, CPN management was forced to dismiss Fox, possibly as well as other former MiMedx employees then working at CPN, allegedly out of fear of a lengthy litigation process.

55. On July 20, 2017, Taneja terminated Fox's employment with CPN over the phone. Taneja stated that CPN and its lawyers could not handle any more of the MiMedx "legal drama."

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Figure 111 Extract from Fox v. MiMedx

Clearly MiMedx is willing to engage in widespread retaliation against employees and former employees.

Non-disclosure agreements

As can be seen in the figures below, the company conditioned their settlement of their civil litigation with Fox and other employees on the withdrawal of complaints to government entities claiming "we continue to be hampered by…you reaching out to government authorities concerning your client's claims".

First Set of Requests for Production to Michael Fox (Mar. 30, 2017). MiMedx hence knew or suspected that Fox had provided information to the SEC regarding a violation of securities laws.

118. On April 3, 2017, MiMedx's counsel, Joseph D. Wargo of Wargo French LLP sent Messrs. Kruchoski and Tornquist's counsel an e-mail regarding the potential settlement of the parties' civil litigation. Mr. Wargo stated that "we continue to be hampered by . . . you reaching out to government authorities concerning your clients' claims which we consider to be frivolous." (Exhibit 15). Mr. Wargo, apparently acting on behalf of MiMedx, conditioned settling the civil litigation, including its claims against Messrs. Kruchoski and Tornquist, on their counsel "contact[ing] any and all governmental authorities to whom you have previously reached out to and (a) withdraw[ing] previously-made complaints made and (2) provid[ing] a statement that that your clients' initial complaint was frivolous based on facts of which you are currently aware." (*Id.*).

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Figures 112 & 113 Extract from Fox v MiMedx[60]

Members of Fox's team were offered severance packages on the condition that they would not bring claims against the company or assist in an investigation be any entity. Note that this appears to include enforcement agencies such as the SEC.

[60] Case: 1:16-cv-11715

106. On December 29, 2016, MiMedx also terminated Veronica Loch, one of the sales representatives Fox managed for MiMedx. In an apparent attempt to prevent Loch from assisting law enforcement, including the SEC, as well as whistleblowers in bringing claims against the Company, MiMedx offered her a severance package that conditioned the receipt of severance pay and benefits on Loch waiving her right to "voluntarily assist other individuals or entities in bringing claims against [MiMedx]." (Exhibit 12.) By accepting the severance package, she would agree not to "provide any such assistance other than assistance in an investigation or proceeding conducted by the United States Equal Employment Opportunity Commission" except pursuant to a valid subpoena. (*Id.*) MiMedx further stated in an accompanying letter that the receipt of severance pay and benefits was conditioned on Loch not taking any action that would be adverse to the Company's interests, including disclosing to any person sensitive or secret information acquired in connection with her employment. (*Id.*) MiMedx made no exception for communicating civil or criminal violations to law enforcement agencies, including the SEC. (*Id.*)

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Figure 114 Extract from Fox v MiMedx

This is illegal as per the Code of Federal Regulations:

Code of Federal Regulations

Title 17 - Commodity and Securities Exchanges

Volume: 3
Date: 2013-04-01
Original Date: 2013-04-01
Title: Section 240.21F-17 - Staff communications with individuals reporting possible securities law violations.
Context: Title 17 - Commodity and Securities Exchanges. CHAPTER II - SECURITIES AND EXCHANGE COMMISSION (CONTINUED). PART 240 - GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934. Subpart A - Rules and Regulations Under the Securities Exchange Act of 1934. - Securities Whistleblower Incentives and Protections.

§ 240.21F-17 Staff communications with individuals reporting possible securities law violations.

(a) No person may take any action to impede an individual from communicating directly with the Commission staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement (other than agreements dealing with information covered by § 240.21F-4(b)(4)(i) and § 240.21F-4(b)(4)(ii) of this chapter related to the legal representation of a client) with respect to such communications.

Figure 115 Extract from Code of Federal Regulations[61]

When viewed in the light of the extremely aggressive actions taken against whistleblowers Kruchoski, Tornquist and Fox, MiMedx is attempting to silence former employees and prevent them from speaking to the authorities.

Harold "Hal" Purdy's wild ride

The most bizarre but revealing case by MiMedx against a former employee is that against Harold "Hal" Purdy and his employee-owned distributor: Recon Medical Devices LLC ("Recon Medical").

Purdy was not dismissed due to this, but instead for breach of a non-compete agreement. MiMedx also seems to not care that Purdy was communicating, and presumably doing business with the VA with his Recon Medical Devices email address.

Purdy was dismissed for selling competing product Collagen. What the company failed to announce, was that Purdy did so in response to an Untitled FDA letter claiming that EpiFix was under further review.

The MiMedx product (EpiFix) which Mr. Purdy had to substitute with a competitor product was the subject of an Untitled Letter publicly posted by the Food and Drug Administration (FDA) which questioned the stated nature of the product, and notified MiMedx that the product was under further review by the FDA. Because of this FDA letter, and MiMedx's decision to no longer provide information brochures and publications with the product, the surgeons at the San Antonio VA Hospital chose to use a competitor product for the amnion solution to complement the MiMedx sheet dry graft, Epicord (which Purdy sold for every surgery that a substitute for EpiFix was used as the solution complement).

Figure 116 MiMedx Group Inc. v. Harold Purdy & Recon Medical Devices

The South Texas Health Care System later evicted podiatry representatives based on reports on channel-stuffing by "numerous publications".

[61] https://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/xml/CFR-2013-title17-vol3-sec240-21F-17.xml

FACTS

Based on information and belief, as a result of a channel stuffing scheme allegedly carried out by MiMedx resulting in investors being defrauded, and numerous publications discussing this particular tactic on December 15 and 16, 2016, the South Texas Veteran's Health Care System in San Antonio, Texas no longer allowed representatives selling products to market their products to podiatry in the facility, which ultimately went hospital wide and is still enforced today. This is evidenced by an email exchange between RK Simon and Kevin Lilly which discusses being shut out of the facility on December 21, 2016. As a result, Purdy lost the ability to perform his job with respect to roughly ninety-seven percent of his volume. The channel stuffing actions and announcements by MiMedx caused them to breach the non-competition agreement with Purdy (the same agreement made the basis of their lawsuit against Purdy), resulting in harm and damages to Purdy.

Figure 117 MiMedx Group Inc. v. Harold Purdy & Recon Medical Devices

Not only had MiMedx representatives been evicted from the South Texas Veteran's Health Care System, but the company has yet to announce this to the market.

6. Conclusion

We reiterate our opinion that MiMedx is a robust fraudulent enterprise. Viceroy are of the opinion that evidence uncovered publicly only begins to scratch the surface of MiMedx's fraudulent dealings.

Viceroy will continue to assist regulatory agencies, as we believe indictments of VA staff earlier this week will initiate an enormous wave of further indictments and office/clinic raids.

We encourage any persons with further evidence of fraud within MiMedx's operations to lodge an anonymous report with regulators through the following channel.

https://www.sec.gov/whistleblower/submit-a-tip

Alternatively, Viceroy are happy to take the heat on publishing more evidence of malpractice at MiMedx, which we will treat with the utmost level of confidentiality. You can reach us at viceroyresearch@gmail.com.