

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 6824/July 23, 2021

ADMINISTRATIVE PROCEEDING

File No. 3-20378

In the Matter of :
:
ELAINE A. DOWLING, ESQ. : ORDER

The Securities and Exchange Commission instituted this proceeding with an Order Instituting Public Administrative Proceedings (OIP), pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e)(1)(ii) of the Commission's Rules of Practice, on June 29, 2021.

The Office of the Secretary's Electronic Filings in Administrative Proceedings (eFAP) system indicates that the OIP and the Order Designating Presiding Judge have been served on the parties. The parties should notify the Office of Administrative Law Judges, by July 30, 2021, of suggested date[s] and time[s] for an initial telephonic prehearing conference. The parties should also file notices of appearance pursuant to Rule 102(d)(2). 17 C.F.R. § 201.102(d)(2).

By a filing dated July 20, 2021, the parties stipulated to the entry of the below protective order.

In connection with the above proceeding and pursuant to Rule 230, 17 C.F.R. § 201.230, the Office of the General Counsel's Office of Litigation and Administrative Practice (OLAP) has produced, or will produce, to Respondent certain documents (investigative record materials) obtained by OLAP in connection with the Commission's investigation concerning the allegations set forth in the OIP. The investigative record materials contain certain sensitive personal information, as that term is defined below.

In light of the foregoing, the parties agreed to the following terms governing the investigative record materials currently produced or that may be produced in the future, and the undersigned finds that good cause exists for the issuance of this protective order.

Regarding the protective order's paragraph 5 on filing documents under seal or redacting sensitive personal information in filings, the parties' attention is directed to Rule 151(e)(1), 17 C.F.R. § 201.151(e)(1); Amendments to the Commission's Rules of Practice, 85 Fed. Reg. 86,464, 86,466–68 (Dec. 20, 2020); the Office of the Secretary's online instructions, <https://www.sec.gov/efapdocs/instructions.pdf>; and part II of the instructions for parties on the

website of the Office of Administrative Law Judges, <https://www.sec.gov/alj/alj-instructions-for-parties.pdf>.

Protective Order

1. As used in this protective order, the term “sensitive personal information” means any documents or other information containing any one or more of the following categories of personal and private documents or information: (a) social security or tax identification number; (b) financial account statement, including statements for any bank account, credit card account, brokerage account, mortgage, student loan, or other loan; (c) financial account number, including for a bank account, credit card account, brokerage account, mortgage, student loan, or other loan; (d) tax return; (e) the home address and phone number of any individual person; (f) the birth date of any individual person; (g) the name of any individual person who, at the time the OIP was filed in this matter, was known to be less than 18 years old; or (h) medical information. Sensitive personal information does not include the last four digits of a financial account number or phone number, the city and state of an individual’s home address, the year of an individual’s birth, or copies of unredacted filings by regulated entities or registrants that are available on the Commission’s public website.

2. Sensitive personal information disclosed to Respondent or to her counsel during the course of this action:

- a. Shall be used only for the purposes of this action;
- b. Shall not be used for any business or commercial purposes;
- c. Shall not be published to the public in any form, except as permitted by paragraphs 5 and 7, below;
- d. May be disclosed only to the following persons, on an as-needed basis in the course of the litigation, with reasonable precautions taken to ensure the confidentiality of the information:
 - i. Respondent;
 - ii. Employees or contractors of any law firm that represents Respondent, including attorneys and secretarial, clerical, paralegal, legal, or student personnel, and any person or entity with whom Respondent’s counsel contracts to reproduce or manage documents;
 - iii. Non-party witnesses;
 - iv. A document’s author(s) or recipient(s);
 - v. Independent (non-employee) consultants, expert witnesses, or advisors retained by any of the parties to this action in connection with this action;
 - vi. Court reporters or stenographers – and their employees – who are engaged to record deposition or hearing testimony;
 - vii. The Securities and Exchange Commission and its employees, agents, or contractors; and
 - viii. Such other persons as hereafter may be authorized by either (1) written consent of all the parties or (2) the judge upon motion of either party.

3. A copy of this protective order must be delivered to each of the named parties or persons within paragraph 2.d to whom a disclosure of sensitive personal information is made, at or before

the time of disclosure, by the party making the disclosure. The provisions of this protective order are binding upon each person to whom disclosure is made.

4. The provisions of this protective order shall not be construed as preventing:
 - a. Any disclosure of sensitive personal information to any party to this action;
 - b. Any disclosure of sensitive personal information to any Commissioner, law clerk, or member or employee of the Commission for any purposes of this action;
 - c. Any disclosure of sensitive personal information for the purpose of enforcing the criminal law or as otherwise required by law; or
 - d. Any disclosure of sensitive personal information by OLAP to a regulatory authority pursuant to a duly-approved access request.

5. Except as otherwise ordered, prior to making a public filing of any document in these proceedings, OLAP and Respondent agree to redact all sensitive personal information from the document. OLAP and Respondent also agree to take reasonable and appropriate measures to prevent unauthorized disclosure of sensitive personal information contained in documents produced or filed in these proceedings, including by persons to whom OLAP or Respondent show or give access to such documents. In the event that redacting a filing is impracticable or would result in a filing being almost entirely redacted, the parties will file the document(s) under seal together with a copy of this order. If a document is filed under seal, it may be disclosed to the parties or persons under paragraph 2.d. In addition, if a party intends to make a filing (such as a brief or motion) that incorporates sensitive personal information in the written text, the party must: (1) file a version clearly labeled "under seal," and (2) file a public redacted version that removes the sensitive personal information.

6. This protective order does not:
 - a. Operate as an admission by any party that any particular document or other discovery material in fact contains sensitive personal information;
 - b. Prejudice in any way the right of a party to seek a determination of whether such material is or should be subject to the terms of this protective order;
 - c. Prevent Respondent's or non-party's disclosure of its own sensitive personal information; or
 - d. Prejudice in any way the right of any party to apply to the Commission for a further protective order relating to any other confidential information or sensitive personal information.

7. Nothing in this protective order precludes the parties from offering sensitive personal information into evidence at the hearing of this action or in any other proceeding in this action, subject to the restrictions set forth in this protective order.

8. This protective order survives the termination of the litigation. Unless otherwise agreed to or ordered, this protective order will remain in force after dismissal or entry of final judgment not subject to further appeal.

9. Within 60 days after dismissal or entry of final judgment not subject to further appeal, all investigative record materials, including all copies of such documents, must be returned to OLAP

unless: (1) the document has been offered in evidence; or (2) OLAP agrees to permanent destruction in lieu of return. Notwithstanding the requirement to return or destroy investigative record materials, counsel may retain attorney work product, including an index that refers or relates to documents containing sensitive personal information, so long as that work product does not duplicate verbatim substantial portions of the text or images of such documents. Such portion of work product containing sensitive personal information will continue to be protected under the terms of this protective order. An attorney may use his or her work product in a subsequent litigation provided that its use does not disclose or use documents containing sensitive personal information.

10. This protective order is subject to modification by the judge on the judge's own motion or on motion of a party or any other person with standing concerning the subject matter.

11. Notwithstanding any provisions contained herein, nothing in this protective order limits the right of OLAP or the Commission to make routine uses of information as set forth in SEC Forms 1661 and/or 1662.

IT IS SO ORDERED.

/S/ Carol Fox Foelak
Carol Fox Foelak
Administrative Law Judge