

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101478 / October 30, 2024

Admin. Proc. File No. 3-20504

In the Matter of

MICHAEL VAX

CORRECTED PROTECTIVE ORDER

On August 30, 2021, the Securities and Exchange Commission issued an order instituting proceedings against Michael Vax, pursuant to Section 15(b) of the Securities Exchange Act of 1934.¹ On September 16, 2024, the Division of Enforcement filed a motion for entry of a protective order to protect from public disclosure the following documents it refers to collectively as the “Covered Materials”: (i) the Division’s June 10, 2022 submission, including its motion for summary disposition and supporting declaration and exhibits; (ii) the Division’s July 27, 2022 reply memorandum; and (iii) the Division’s September 16, 2024 supplemental submission, including its brief and supporting declaration and exhibits.² The Division states that the Covered Materials contain documents and discussion of information from a related criminal case “that remain under seal,” and that a federal district court has permitted to be shared only with the Commission and Vax. The Division represents that Vax does not object to its request.

Commission Rule of Practice 322 provides that a party may seek a protective order limiting disclosure of a document or testimony that contains confidential information.³ Such a motion is granted “only upon a finding that the harm resulting from disclosure would outweigh

¹ *Michael Vax*, Exchange Act Release No. 92819, 2021 WL 3894484 (Aug. 30, 2021).

² Although not specifically mentioned in the Division’s request, we construe it as including the Division’s motion for a protective order as part of the Covered Materials. The caption of the motion states that it is “under seal,” and the motion discusses the same information the Division is seeking to protect from public disclosure. For similar reasons, we further consider the Covered Materials to include the following documents: (i) Vax’s response to penalty proposed dated May 11, 2022; (ii) Vax’s certification dated May 11, 2022; (iii) Vax’s brief in opposition to proposed penalty dated July 13, 2022; (iv) Vax’s certification dated July 13, 2022; and (v) Vax’s request that his filing be accepted under seal dated July 13, 2022.

³ 17 C.F.R. § 201.322(a).

the benefits of disclosure.”⁴ Given the circumstances, it appears that the Division has met this standard.⁵

Accordingly, it is ORDERED that:

1. Except as otherwise provided in this Order, the Covered Materials shall be disclosed only to the parties to this action, their counsel, the Commission, any staff advising the Commission in its deliberative processes with respect to this proceeding, and in the event of an appeal of the Commission’s determination, any staff acting for the Commission in connection with that appeal.

2. All persons who receive access to the Covered Materials shall keep them confidential and, except as provided in this Order, shall not divulge the Covered Materials or the information contained in them to any person.

3. No person to whom the Covered Materials are disclosed shall make any copies or otherwise use such documents or information, except in connection with this proceeding or any appeal thereof.

4. The Office of the Secretary shall place the Covered Materials in a sealed envelope or other sealed container marked with the title of this action, identifying the document, and marked “CONFIDENTIAL.”

5. The requirements of sealing and confidentiality shall not apply to any reference to the existence of the Covered Materials or to citation of particular information contained therein in testimony, oral argument, briefs, opinions, or in any other similar use directly connected with this action or any appeal thereof.

⁴ *Id.* § 201.322(c).

⁵ *See, e.g., Alpine Sec. Corp.*, Exchange Act Release No. 93983, 2022 WL 136747 (Jan. 14, 2022) (granting request for a protective order against the disclosure of Suspicious Activities Reports filed with FinCEN, which regulations under the Bank Secrecy Act limit from disclosure); *Nature’s Sunshine Products, Inc.*, Exchange Act Release No. 59181, 2008 WL 5423151 (Dec. 30, 2008) (granting request for a protective order against the disclosure of the Division of Enforcement’s supplemental brief, which contained information concerning non-public investigation).

6. The parties are advised that the Commission may reach a different conclusion regarding the confidentiality of the Covered Materials or information covered by this Order at any time before it determines the issues raised in the proceeding.

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

Vanessa A. Countryman
Secretary