

# MiMedx's selective non-compete litigation & questionable disclosures

While Viceroy pieces together further damning evidence of MiMedx's dwindling relationship with the Department of Veteran Affairs, investors should question the discretionary nature of MiMedx's aggressive litigation. Namely against employees which have breached their non-compete with MiMedx. Viceroy has previously published on MiMedx detailing its dubious hiring practices, connections to related party employee owned distributors, improper government filings and undisclosed SEC investigation.

Many former MiMedx employees **that are not in legal conflict with MiMedx have reached out to Viceroy** to provide information and corroboration of our investigations. All whistleblowers are extremely fearful of **physical and legal** retribution from MiMedx. They have provided images, statements, corroborating phone data/records and further information about the company's channel stuffing practices, executive impropriety and lack of disclosure.

Contrary to their statements, we believe **MiMedx intentionally turns a blind eye to certain employees setting up their own distributorships especially where it is likely to benefit MiMedx revenue schemes.** This has been confirmed by former employees who told Viceroy:

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***"...some people are allowed to break a rule [that] others are not. And there's so much stuff that goes on behind the scenes with the executive team that no one knows who makes the rules..." – Former MiMedx Employee***

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These employee-owned companies are not idle gossip: every former employee was aware of their existence and usually the individuals behind them. These companies are an open secret within MiMedx.

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***" I mean it's pretty well- It's pretty common knowledge. I'm just amazed Pete's denied all this cause it's pretty much coming from him..." Former MiMedx Employee who has filed evidence with the SEC/VA***

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In this article, we will detail three further employee owned companies we believe MiMedx are aware of and have turned a blind eye to. **We believe the existence of such companies is useful to MiMedx**, allowing them further avenues through which they can bring forward revenue or "channel stuff".

**As MiMedx management seems incapable of coming clean, Viceroy will continue to publish its findings and the information provided to us by former employees in a series of shorter articles.**

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***Viceroy has discovered two senior MiMedx personnel who appear to be in open violation of their non-compete agreement.***

***We believe MiMedx is aware of this, and uses such arrangements to boost revenues.***

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Viceroy's previous reports detailing fundamental issues within MiMedx (NASDAQ: MDXG) can be read here:

**Part 1:** <https://viceroyresearch.org/2017/09/20/mimedxs-nasdaqmdxg-employment-of-kickback-bribery-scheme-inducers-makes-it-uninvestable/>

**Part 2:** <https://viceroyresearch.org/2017/09/26/the-same-old-story-mimedxs-response-is-typical-of-companies-trying-to-cover-their-tracks-and-is-unacceptable/>

**Part 3:** <https://viceroyresearch.org/2017/10/02/mimedxs-channel-stuffing-hard-evidence/>

**More to come...**

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## The Schmidt Brothers: Donovan and John Eric Schmidt

Former employees informed Viceroy that certain employees were worth looking into: namely Donovan Schmidt and his brother John Eric Schmidt.

Brothers Donovan Schmidt and John Eric Schmidt both appear to work at MiMedx. Donovan simultaneously appears to work at **Orthofix according to his LinkedIn but lists his position as MDM specialist at MiMedx on his Facebook profile**. In addition to this, his LinkedIn profile simultaneously lists him working at a Surgical Advanced Technologies corp, of which we can find no trace. As we outlined in our previous report, he is not the only MiMedx employee to hold down two conflicting positions simultaneously.

**Viceroy was informed by former employees that:**

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***“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***

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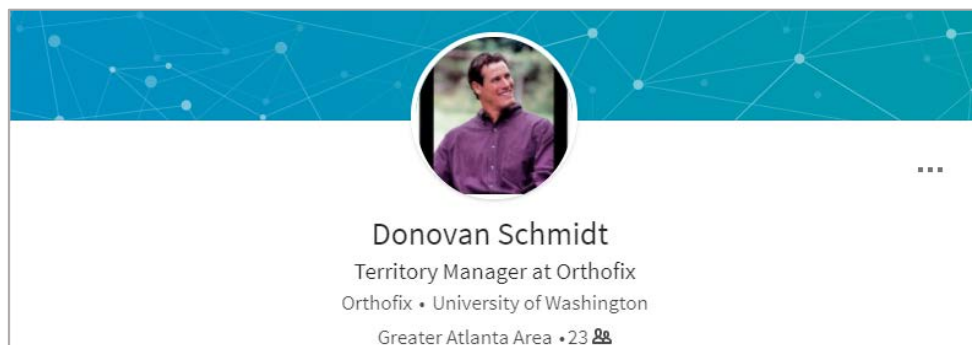


Figure 1 Extract from Donovan Schmidt's LinkedIn profile <sup>1</sup>

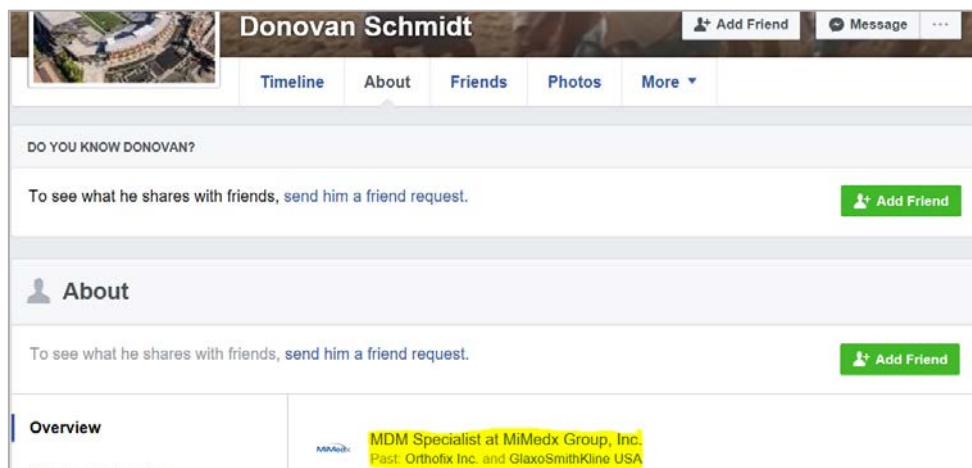


Figure 2 Extract from Donovan Schmidt's Facebook profile <sup>2</sup>

Donovan's brother, John Eric Schmidt, also works as MiMedx as a Sales Director/National Marketing Development Director in Urology. While John's LinkedIn is much lighter on the details than Donovan's, a CaféPharma forum thread mentions his position as a senior figure in the urology department as of at least June 12, 2014.

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<sup>1</sup> <https://www.linkedin.com/in/donovan-schmidt-78969211/>

<sup>2</sup> <https://www.facebook.com/donovan.schmidt.3>

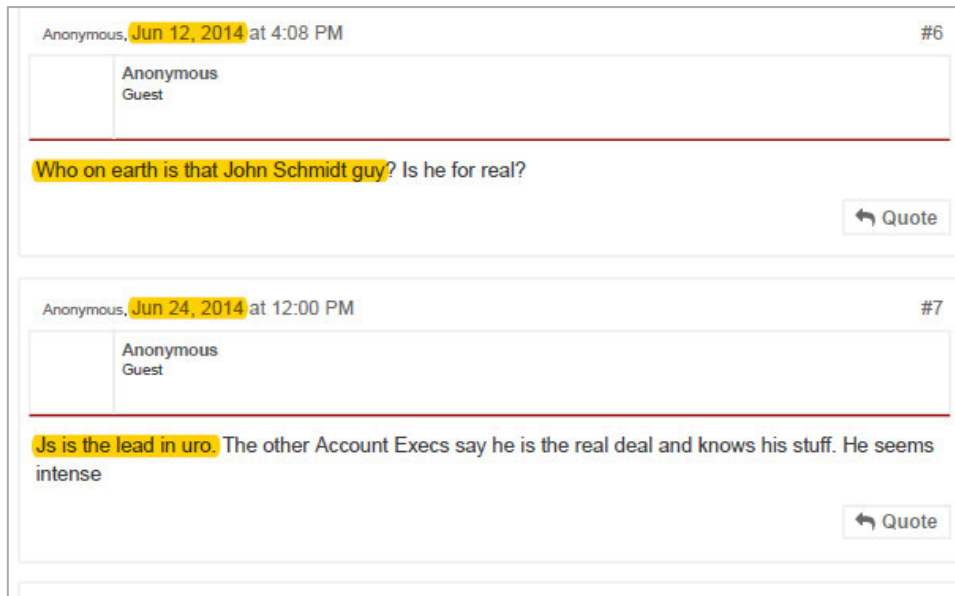


Figure 3 Extract from CafePharma forum thread<sup>3</sup>



Figure 4 Extract from John Eric Schmidt's LinkedIn profile<sup>4</sup>

Bio-tech Enterprises, LLC

Donovan Schmidt is an authorized member and likely founder of Bio-Tech Enterprises, LLC a Florida company. Note that at the time of publication of this report, Bio-Tech Enterprises LLC is still active.

Detail by Entity Name		Title Authorized Member
Florida Limited Liability Company		
<b>BIO-TECH ENTERPRISES, LLC</b>		<b>Schmidt, Donovan</b>
<u>Filing Information</u>		5555 GLENRIDGE CONNECTOR
<b>Document Number</b>	L15000185993	SUITE 400
<b>FEI/EIN Number</b>	N/A	ATLANTA, GA 30342
<b>Date Filed</b>	11/02/2015	
<b>State</b>	FL	
<b>Status</b>	ACTIVE	
<b>Last Event</b>	REINSTATEMENT	
<b>Event Date Filed</b>	04/12/2017	

Figures 5 & 6 Extract from Bio-Tech Enterprises, LLC's company information<sup>5</sup>

<sup>3</sup> <http://www.cafepharm.com/boards/threads/ethics.558186/>

<sup>4</sup> <https://www.linkedin.com/in/john-eric-schmidt-68282447/>

<sup>5</sup> Visit <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName> and search for "Bio-Tech Enterprises, LLC"

Donovan Schmidt's business partner is Mary Ellen Haid whose LinkedIn lists her as an independent territory manager in medical device sales in Atlanta.



Figure 7 Extract from Mary Ellen Haid's LinkedIn profile<sup>6</sup>

Clearly then Bio-Tech Enterprises LLC is likely to be involved in the medical sales department. Our question is: isn't this a clear breach of Donovan Schmidt's Non-Compete Agreement?

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*Why is Donovan Schmidt in business with the wife of a neurosurgeon who lists herself as an independent territory manager in medical device sales?*

*How are these activities not massive breaches of MiMedx's Non-Compete Agreement?*

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Integrated Allied Medical, Inc

John Eric Schmidt, much like his brother, had his own business: Integrated Allied Medical LLC, a North Carolina company registered to his home address.

Corporate Names	
Legal:	Integrated Allied Medical, Inc.
Business Corporation Information	
Sosid:	0994927
Status:	Admin. Dissolved
Annual Report Status:	Current
Citizenship:	Domestic
Date Formed:	8/9/2007
Fiscal Month:	December
Registered Agent:	Schmidt, John E.
Corporate Addresses	
Mailing:	12416 Kane Alexander Drive Huntersville, NC 28078
Principal Office:	12416 Kane Alexander Drive Huntersville, NC 28078
Reg Office:	12416 Kane Alexander Drive Huntersville, NC 28078
Reg Mailing:	12416 Kane Alexander Drive Huntersville, NC 28078
Officers	
President:	John E. Schmidt 12416 Kane Alexander Drive Huntersville NC 28078

Figure 8 Extract from Integrated Allied Medical, Inc's North Carolina Department of Secretary of State profile<sup>7</sup>

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<sup>6</sup> <https://www.linkedin.com/in/mary-ellen-haid-88ba97110/>

<sup>7</sup> <https://www.sosnc.gov/Search/profcorp/8549166>

The company is listed on many medical sales sites and has an **8099 Standard Industrial Code** denoting “Health and Allied services, not elsewhere classified” and a **621999 North American Industry Classification System code** denoting “All Other Miscellaneous Ambulatory Health Care Services”<sup>8</sup>. Note that this company was only dissolved on September 28, 2015. Readers will note that this was **more than a year after the first mention of his employment of MiMedx** on CaféPharma<sup>9</sup> as an executive.

*Donovan and John Eric Schmidt both appear to operate businesses in violation of their non-compete. Does MiMedx display favoritism in enforcement of its Non-Compete Agreement?*

*Or is ownership of distributorships the norm for 'specific' MiMedx employees? Is the Non-Compete Agreement used selectively as a weapon to punish dissidents and whistleblowers?*

### Frank Braly: Braly Holdings LLC and Streamline Medical Device Consultants

Viceroy has previously investigated MiMedx employee Frank H Braly, Regional Sales Director who operates SpineLogix LLC and StreamLogix LLC. Braly’s companies sold MiMedx products leading to concerns about the quality of sales to such companies and how many such employee-controlled businesses exist.

In addition to this, Viceroy has uncovered another company owned by Braly: Braly Holdings LLC which trades under the name Streamline Medical Device Consultants.



Figure 9 Extract from Frank Braly’s LinkedIn profile<sup>10</sup>

Taxpayer name <b>BRALY HOLDINGS LLC</b>		Secretary of State (SOS) file number or Comptroller file number <b>0801816274</b>	
Mailing address <b>1519 CHANTILLY LN</b>			
City <b>HOUSTON</b>	State <b>TX</b>	ZIP Code <b>77018</b>	Plus 4
<input checked="" type="radio"/> 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	
<i>Please sign below!</i> 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.			
SECTION A Name, title and mailing address of each officer, director or manager.			
Name <b>FRANK BRALY</b>	Title <b>PRESIDENT</b>	Director <input type="radio"/> YES	Term expiration m m d d y y
Mailing address <b>1519 CHANTILLY LN.</b>	City <b>HOUSTON</b>	State <b>TX</b>	ZIP Code <b>77018</b>

Figure 10 Extract of Braly Holdings LLC’s 2016 public information

<sup>8</sup> <https://www.manta.com/c/mmcwpqf/integrated-allied-medical-inc>

<sup>9</sup> <http://www.cafepharm.com/boards/threads/ethics.558186/>

<sup>10</sup> <https://www.linkedin.com/in/frank-braly-a5992333/>

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 11 Extract of Braly Holdings 2014 change of name

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.

A former employee has further added significant color to the situation with Braly:

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***Frank Braly was an employee of Nutech prior to MiMedx. He has a non-compete with NuTech, which MiMedx knowingly violated by hiring him. MiMedx hired Braly to "flip the NuTech business" to MiMedx in violation of his non-compete.***

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Braly's LinkedIn lists his employment at NuTech, and if a non-compete is in place (which is more than probable in the industry) and former employees have confirmed as much, then NuTech Medical would be wise to consider its position. We will be disclosing this information to NuTech shortly.

As per Braly's LinkedIn:



**Area Sales Director**

NuTech Medical

Sep 2014 – Nov 2015 • 1 yr 3 mos

Houston, Texas

A regenerative medicine company focused on amniotic tissue, allograft bone and spinal hardware. Managed independent agents and distributors as well as direct sales team.

Figure 12 Frank Braly LinkedIn<sup>11</sup>

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<sup>11</sup> Frank Braly LinkedIn - <https://www.linkedin.com/in/frank-braly-a5992333/>

## Conclusion

Clearly there are no concrete rules at MiMedx regarding employee owned businesses. What is of note is MiMedx assert people have agendas to improve their litigation prospects or damage the share price. Investors would be wise to question why so many former employees had direct knowledge of the schemes have reported their concerns to the findings. It would be grossly negligent for the company not to be aware of these entities: former employees from various parts of the company were very aware of their existence, yet MiMedx deny this.

Former employees have also filed complaints relating to the channel stuffing improprieties that MiMedx seek to deny. These employees are not in litigation with MiMedx, so their reasoning for reporting the misconduct is not as the company would have it, to score points relating to litigation.

Viceroy believes these companies exist with MiMedx and its managements blessing in exchange for their facilitation of channel-stuffing activities. In this article we have clearly outlined their existence and connection to MiMedx; investors should question the company as to their purpose.