

How are MiMedx making their numbers?

“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.” – Former MiMedx Employee

Viceroy continues piecing together further damning evidence of MiMedx’s dwindling relationship with the Department of Veteran Affairs.

As a recap, we have established **flawed and dubious hiring practices** for MiMedx, **connections to related party employee owned distributors**, **improper government filings**, **photographic evidence of channel stuffing** and **an undisclosed SEC investigation**.

MiMedx refuse to acknowledge the facts. In what appears to be a blatant disregard for the SEC rules and the need for 8-K filing, MiMedx recently filed an 8-K for relating to a “Amendment to Credit Agreement”¹, ignoring the elephant in the room: the SEC subpoena. According to MiMedx actions, an amendment to credit agreement” is **significantly more important than the need to file an 8-K relating to an SEC subpoena**. Viceroy believe that this is **to avoid people tracking the issues of MiMedx and/or owning up to the seriousness of an on-going investigation**.

This is in addition to **MiMedx misleading its investors about the publication of an alleged independent report that was concealed from its own investors**. As highlighted by Aurelius Value, MiMedx went one step further and prohibited its disclosure even when the SEC made enquiries². Investors would be prudent to check the SEC filings from April 18, 2017³

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/>

Part 4: <https://viceroyresearch.org/2017/10/03/mimedxs-selective-non-compete-litigation-questionable-disclosures/>

More to come...

¹ <https://www.sec.gov/Archives/edgar/data/1376339/000137633917000124/mdxg2017102820178-klocdocu.htm>

² <https://seekingalpha.com/article/4109861-mimedx-undisclosed-details-undermine-independent-investigation>

³ <https://www.sec.gov/Archives/edgar/data/1376339/000137633917000066/filename1.htm>

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We call on MiMedx to immediately disclose how many VA Facilities they have been barred, suspended or banned from doing business with

Previously we identified corroborating **photographic** evidence to channel stuffing allegations within Whistleblower court proceedings. Having interviewed a whistleblower **not connected with any legal proceedings**, Viceroy now call upon MiMedx to update its investors immaterially on the following:

How many Veteran Affairs facilities have MiMedx been barred, suspended, or banned from doing business with?

Note:

Although MiMedx triumphed in their settlement with Hal Purdy, we still believe there is still cause for concern regarding statements in part of the case. We question how the loss of Hal Purdy's clients and sales did not have a material impact on revenue.

As a reminder to readers, it was highlighted in MiMedx Inc Vs Hal Purdy & Recon Medical Devices LLC -CAUSE NO. DC-16-16478

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 1 Extract from CAUSE NO. DC-16-16478

Why did MiMedx not notify its investors that was shut out of such a significant facility in terms of sales?

Since Viceroy has started investigating MiMedx's relationship with the VA, we have been in communication with whistleblowers whose evidence has been provided to the SEC & VA OIG.

We believe MiMedx's revenues were materially impaired by their channel stuffing conduct and they have failed to notify the market of material changes in the business.

Whistleblower 11 is a former employee with no legal proceedings pending or implied against MiMedx who had **material concerns of such severity** regarding MiMedx's business practices that they reached out to us. They have a proverbial "goody-bag" of evidence regarding MiMedx's channel **stuffing which has been forwarded to the SEC.**

Investors would be wise to question why MiMedx did not alert them as to their loss of significant business due to their channel stuffing activities. Investors should take note that we will be presenting a full dossier on MiMedx's conduct and strained relations with the VA very shortly. The facts in this article in particular are

especially significant, something MiMedx will realize in time when various FOIA and related public access requests to certain bodies are brought to light.

Below is an extract from a transcript of Viceroy's communication with Whistleblower 11 – we believe investors should be concerned:

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

Jeffrey Frenchman DPM

Viceroy's research confirms that the "Jeff Frenchman" mentioned in the transcript above is Jeffrey Frenchman. Initial checks show that Jeffrey Frenchman does indeed work for the VA confirmed in an excerpt from the Atlanta VA website below:

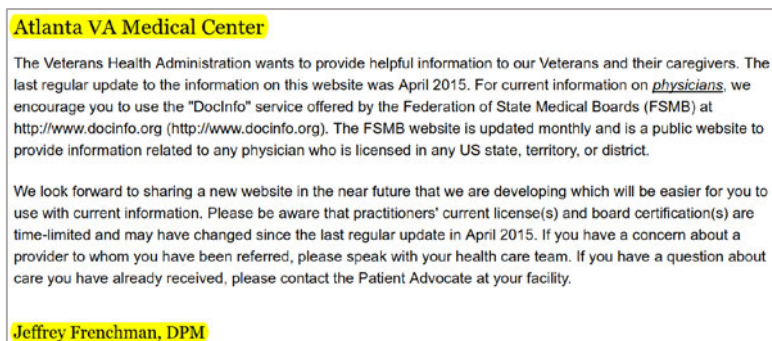


Figure 2 Veterans Health Administration⁴

Jeffrey Frenchman is also connected with MiMedx, as per MiMedx's own press release from October 2016⁵.

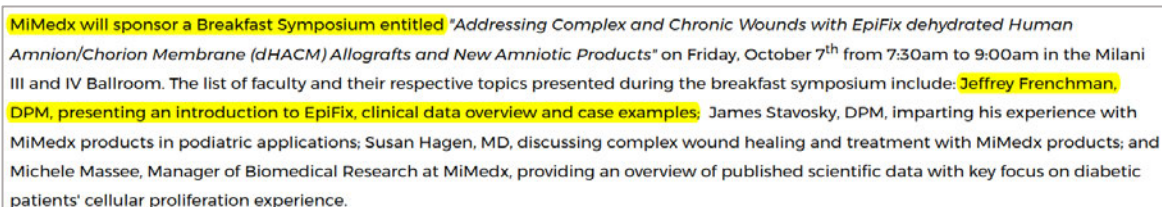


Figure 3 MiMedx Press Release October 2016

Not only is Jeffrey Frenchman a keynote speaker at MiMedx events, but he is practicing out of a VA facility in Atlanta, Georgia; a fact corroborated by Viceroy's communication with former MiMedx employees. These same employees have also provided records and information regarding MiMedx's channel stuffing activities.

We note within the court filings between MiMedx and Hal Purdy regarding his breach of his Non-Compete agreement: it is stated that MiMedx was prevented from doing business at VA's whilst allegations were being investigated about channel stuffing.

Based on the information provided to Viceroy by Whistleblower 11 regarding MiMedx's conduct at VA facilities in Atlanta we are filing an additional submission with the SEC and Office of the Inspector General for the Veterans Administration.

Conclusion

As more facts come to light we urge MiMedx investors to seriously question management's selective disclosures.

In spite of many former MiMedx employees coming forward to provide information, thus corroborating extensive investigations conducted by Viceroy and Aurelius Value, MiMedx seems to be keeping investors misinformed and in the dark.

⁴ <https://www.va.gov/providerinfo/atlanta/detail.asp?providerid=749>

⁵ <http://www.prnewswire.com/news-releases/advances-in-regenerative-medicine-with-mimedx-epifix-and-amniofix-to-be-presented-at-sawc-fall-meeting-300340407.html>