

Independent Investment Research Focused on Public Company Interactions with the SEC.

## SEC Investigation Updates

Updates and analysis on SEC investigative activity.

### Companies in Today's Research Update

- Babcock & Wilcox Enterprises, Inc. – BW
- Charles Schwab Corp, The – SCHW
- Lumber Liquidators Holdings, Inc. – LL
- MiMedx Group Inc. – MDXG

**Note:** All prices as of the close on 09-Jul-2021.

**Disclosure Insight:** Babcock & Wilcox Enterprises, Inc. – BW \$7.32 US Mkt Cap: \$608.7 mm: Disclosed SEC Investigation(s) Again Confirmed as On-going.

### Babcock & Wilcox's formal and protracted SEC accounting investigation expanded – Again.

Babcock & Wilcox has a formal and protracted SEC accounting investigation that appears to have recently expanded, yet again. We think many investors have become complacent to the risk this carries. Most of the related disclosures are no more than cut-and-paste versions of earlier ones. Easy to ignore. However, key details continue to be lacking; even as this investigation has become sizable, protracted, and continues to expand. In today's report we take you through the history and how this investigation has steadily expanded over time. This includes disclosures made this year, in 2021, where we found language in the 10-K that compels follow-up.

As a side note, in the first half of 2021, B&W filed registrations for a new debt and a preferred offering. None of the related registration statements mentioned SEC investigative activity. Full report available for clients at our website.

**Removed:** Charles Schwab Corporation – SCHW \$ 70.55, Mkt Cap \$133.1 B: Charles Schwab removed from Watch List.

We were ahead of the recent disclosure of an SEC investigation, made by Schwab in an 8-K filed 02-Jul-2021. Our warning of an undisclosed SEC probe was issued in Apr-2021.

Today's report provides our analysis of what was disclosed, what's missing from the disclosure, and questions to ask the company in follow-up. Full report available for clients at our website.

**Disclosure Insight:** Lumber Liquidators Holdings, Inc. – LL \$7.32 US Mkt Cap: \$608.7 mm: Disclosed SEC Investigation(s) Again Confirmed as On-going.

### Update on Lumber Liquidators' Protracted Investigations

There is an important milestone coming up soon which is worth paying attention to if you have, or are considering, an investment in Lumber Liquidators.

According to an SEC enforcement action brought against Lumber Liquidators in Mar-2019, in early 2015 the company was found to have made false public statements in response to a "60 Minutes" report. That report included undercover video of the company's suppliers saying that they provided Lumber Liquidators with products that did not meet regulatory standards. As part of this enforcement action, the company agreed to pay \$33 million in penalties for misleading investors about formaldehyde in its laminate flooring products. There is an array of other penalties as well. The related disclosures have, for the most part, of little analytical value. We also discuss and analyze an SEC comment letter sent to the company in Dec-2020. Full report available for clients at our website.

**Disclosure Insight: MiMedx Group, Inc. – MDXG \$97.14, Mkt Cap \$114.58 B:** *Previously Disclosed – and settled – SEC Investigation(s) is Again Confirmed as Ongoing.*

### **In-Depth Update on MiMedx's Many Investigations**

Anyone paying even the scantest attention to financial Twitter over the past couple years bore witness to the very public beating administered to the senior management of MiMedx Group by well-known short seller, Marc Cohodes. Accusations centered around bribing customers, illegal sales practices, falsely recognizing revenue, as well as lying to the company's board and auditors. There was an array of investigations, many still lingering today.

MiMedx paid a fine and settled with the SEC in November 2019. The former CEO and the COO were also indicted in Nov-2019. Both were also eventually convicted of securities fraud and sentenced to prison. All the way up

to his sentencing, former CEO, Parker Petit, whined about "illegal short-sellers". He even paid \$750,000 to a conservative activist with strong ties to Donald Trump to try to secure a pardon from the outgoing president. That effort failed and Mr. Petit remains in prison.

But what's happened to the company since? More importantly, why does the SEC keep confirming the existence of ongoing enforcement proceedings, three times now since the Nov-2019 settlement? Full details in today's report, available for clients at our website.

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**Notes:** *New SEC investigative activity could theoretically begin or end after the date covered by the latest information in this report, which would not be reflected here. Where applicable, the SEC did not disclose the details on investigations referenced herein. All we know is that they somehow pertain to the conduct, transactions, and/or disclosures of the companies. Companies with undisclosed SEC investigations are maintained on our Watch List of companies with undisclosed SEC investigations. The SEC reminds us that its assertion of the law enforcement exemption should not be construed as an indication by the Commission or its staff that any violations of law have occurred with respect to any person, entity, or security.*

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