

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ALEJANDRO MENDOZA,

Plaintiff,

v.

DISTRIBUTED CREATION,
INC.,

Defendant.

C.A. No. 2026-0580-CDW

**POSTTRIAL ORDER GRANTING PARTIAL
INSPECTION OF BOOKS AND RECORDS¹**

WHEREAS:

A. Defendant Distributed Creation, Inc. (d/b/a Splice) (“Company”) is a privately held Delaware corporation with its principal place of business in New York City.² The Company operates a music creation platform giving creators access to a royalty-free sample library and AI tools to assist in idea generation.³

¹ This case was tried on a paper record without oral argument at the parties’ agreement. *See* Dkts. 29, 30. Plaintiff’s exhibits are attached to the Declaration of Alejandro Mendoza in Support of Plaintiff’s Opening Pre-Trial Brief, Dkt. 16 (Exhibits 1–5) and the Supplemental Declaration of Alejandro Mendoza in Support of Plaintiff’s Reply Pre-Trial Brief, Dkt. 27 (Exhibits 6–7). They are cited as “Pl.’s Ex.” Defendant’s exhibits are attached to the Transmittal Affidavit of Clayton B. Faller, Esquire in Support of Defendant’s Answering Pre-Trial Brief, Dkt. 21, and are cited as “Def.’s Ex.” The facts herein were proven by a preponderance of the evidence.

² Verified Compl. for Inspection of Books & Records Pursuant to 8 *Del. C.* § 220 ¶ 5, Dkt. 1 (“Complaint” and cited as “Compl.”); Def.’s Answer to Verified Compl. for Inspection of Books & Records Pursuant to 8 *Del. C.* § 220 ¶ 5, Dkt. 14 (“Answer”).

³ Def.’s Answering Pre-Trial Br. 2, Dkt. 19 (“Answering Br.”).

B. Plaintiff Alejandro Mendoza is a stockholder of the Company.⁴ He holds 10,976 shares of common stock, representing approximately 0.02013% of the Company's issued and outstanding shares.⁵

C. In April 2025, the Company acquired a significant stake in Spitfire Audio; the transaction was publicly announced on April 28.⁶ Around the time of the acquisition, the Company issued additional equity and secured a venture debt facility to help finance the transaction (collectively, the "April 2025 Deals").⁷

D. In September 2025, plaintiff emailed the Company requesting "financial statements for the period from Q3 2024 to Q3 2025," purportedly exercising his rights under Section 220 of the Delaware General Corporation Law,⁸ and asking whether anyone was selling the Company's shares that he could buy.⁹ Plaintiff also alleged his purpose was to evaluate the financial performance and condition of the Company.¹⁰

E. Plaintiff signed a confidentiality agreement on February 27, 2026 and the Company produced the requested financial

⁴ Compl. ¶ 4; Answer ¶ 4.

⁵ Compl. ¶¶ 1, 4; Answer ¶¶ 1, 4.

⁶ Answering Br. 2.

⁷ *Id.*

⁸ 8 *Del. C.* §§ 101–398.

⁹ Def.'s Ex. 9 at 9–10.

¹⁰ *Id.* at 9.

documents.¹¹ After the production, plaintiff asserted the materials were incomplete.¹² He contended he received only executive summary financial statements for July 2024 through September 2025 and the production did not include the most recent financial statement.¹³

F. After reviewing monthly cash flow, balance sheet, and profit-and-loss metrics from July 2024 through September 2025, plaintiff questioned the Company's April 2025 acquisition of Spitfire Audio.¹⁴ He identified the following: (1) a \$53 million transaction in April 2025 involving approximately \$45 million in intangible asset purchases and \$8 million in capitalized content, reportedly related to the acquisition of Spitfire Audio; (2) \$25 million in new venture debt at an annualized interest rate around 13%; (3) approximately \$18 million in new equity issuances; (4) cumulative net losses of approximately \$9.9 million over the 15-month period ending September 2025; and (5) monthly net losses escalating to \$1.1 million to \$1.8 million from March 2025 onward.¹⁵

G. On March 16, 2026, plaintiff served a formal, written demand on the Company under Section 220 ("Demand").¹⁶ The Demand

¹¹ Pl.'s Opening Pre-Trial Br. 6–7, Dkt. 16 ("Opening Br.").

¹² Compl. ¶ 9.

¹³ *Id.* ¶ 7.

¹⁴ *Id.*; Answer ¶ 7.

¹⁵ Compl. ¶ 9; Answer ¶ 9.

¹⁶ Def.'s Ex. 10; *see also* Compl. ¶ 2; Answer ¶ 2.

asserts five purposes and identifies eight categories of books and records sought.¹⁷

H. Plaintiff asserts five purposes in the Demand: (1) valuing his stock; (2) investigating potential mismanagement; (3) investigating related-party transactions; (4) determining the dilutive effect of the April 2025 equity issuance; and (5) assessing the Company's current financial condition.¹⁸ He seeks eight categories of documents to fulfill those purposes:

Category 1: Current financial statements encompassing Q4 2025 and Q1 2026.

Category 2: A complete balance sheet as of September 30, 2025.

Category 3: All board minutes, written consents, resolutions, and board packages relating to the April 2025 acquisition.

Category 4: Documentation, including the executed loan agreement, term sheet, and all material amendments, relating to the \$25 million venture debt facility raised in April 2025.

Category 5: The current capitalization table and historical capitalization tables dating back to January 1, 2024.

Category 6: Any third-party valuation, 409A valuation, fairness opinion, or board-approved valuation of the Company conducted since January 1, 2024.

¹⁷ Demand 2–3.

¹⁸ *Id.*

Category 7: All related-party transaction disclosures.

Category 8: All board resolutions, subscription agreements, and closing documents relating to equity issuances since January 1, 2024, including the April 2025 equity raise of approximately \$18 million, identifying all investors, price per share, and ownership percentages.¹⁹

I. The Company refused the Demand on March 23 and declined to produce any books or records.²⁰ The Company contended plaintiff failed to state a proper purpose and the Demand was overbroad because it sought documents not essential to plaintiff's stated purposes.²¹ The Company offered to produce its 2025 full-year monthly financial statements and a stockholder list, conditioned on plaintiff signing a confidentiality agreement and agreeing to dismiss this action.²² Plaintiff declined.²³

¹⁹ *Id.* at 3–4.

²⁰ Compl. ¶ 3; Def.'s Ex. 8.

²¹ Def.'s Ex. 8.

²² Def.'s Ex. 11.

²³ *Id.*

J. On May 8, plaintiff filed the Complaint.²⁴ The Company answered on June 5.²⁵ The parties agreed to forgo discovery,²⁶ and between June 30 and July 24, the parties filed their pretrial briefs.²⁷

K. On July 16, while pretrial briefing was underway, the Company again offered to provide certain information while narrowing the issues in dispute, proposing to produce its stockholder list and 2025 financial statements subject only to a confidentiality agreement.²⁸ Plaintiff agreed, and the Company produced the 2025 monthly financial statements and stockholder list on July 23.²⁹

L. Section 220 of the Delaware General Corporation Law grants stockholders a qualified statutory right to inspect a corporation's books and records for a proper purpose.³⁰ Under Section 220(b), a stockholder seeking to inspect corporate records must submit a "written demand under oath."³¹ If a stockholder seeks corporate records beyond the

²⁴ See Compl. at 1.

²⁵ See Answer at 1.

²⁶ See Order Governing Case Sched. ¶ 3, Dkt. 13.

²⁷ See Opening Br.; Answering Br.; Pl.'s Reply Pre-Trial Br. in Support of His Demand to Inspect Books & Records Under 8 *Del. C.* § 220, Dkt. 27 ("Reply Br.").

²⁸ Def.'s Ex. 15.

²⁹ Pl.'s Exs. 6–7.

³⁰ *Barkan v. Exabeam, Inc.*, 2025 WL 1088821, at *5 (Del. Ch. Apr. 11, 2025).

³¹ 8 *Del. C.* § 220(b).

stock ledger or list of stockholders, Section 220(b) says three other things must also be true.

M. First, the demand must be “made in good faith and for a proper purpose.”³² A proper purpose is “a purpose reasonably related to a stockholder’s interest as a stockholder.”³³ This means “the [stockholder’s] purpose must be something that stockholders would be interested in because of their position as stockholders.”³⁴ “There is no shortage of proper purposes under Delaware law[.]”³⁵ “[O]nce a stockholder has identified a proper purpose, . . . the burden shifts to the corporation to prove that the stockholder’s avowed purpose is not her actual purpose and that her actual purpose for conducting the inspection is improper.”³⁶

N. Second, the demand must describe “with reasonable particularity the stockholder’s purpose and the books and records the stockholder seeks to inspect.”³⁷ A demand states the records sought with reasonable particularity “[s]o long as [it] enables the receiving corporation

³² 8 *Del. C.* § 220(b)(2)a.

³³ 8 *Del. C.* § 220(a)(2).

³⁴ *Lynn v. EnviroSource, Inc.*, 1991 WL 80242, at *2 (Del. Ch. May 13, 1991).

³⁵ *Melzer v. CNET Networks, Inc.*, 934 A.2d 912, 917 (Del. Ch. 2007).

³⁶ *Woods Tr. of Avery L. Woods Tr. v. Sahara Enters., Inc.*, 238 A.3d 879, 891 (Del. Ch. 2020).

³⁷ 8 *Del. C.* § 220(b)(2)b.

to understand why the stockholder seeks inspection and what sort of documents it needs to look for[.]”³⁸

O. Third, the “books and records” the stockholder seeks to inspect must be “specifically related to the stockholder’s purpose.”³⁹ The stockholder must “establish that each category of the books and records requested is essential and sufficient to the stockholder’s stated purpose[s].”⁴⁰ A stockholder is not entitled to inspect all the records they seek simply because they have unanswered questions.⁴¹

P. If the corporation refuses to permit inspection or does not reply to the demand within five business days, Section 220(c) allows the stockholder to file suit seeking an order to compel that inspection.⁴² If the stockholder proves they are a stockholder and have met Section 220(b)’s requirements, the court may order the production of nine categories of statutorily defined “books and records.”⁴³

Q. If the stockholder has satisfied Section 220(b)’s requirements but the corporation does not have certain categories of “books and

³⁸ *Moran v. Unation, Inc.*, 2025 WL 3706330, at *10 (Del. Ch. Dec. 22, 2025).

³⁹ 8 *Del. C.* § 220(b)(2)c.

⁴⁰ *Unation*, 2025 WL 3706330, at *12 (quoting *Thomas & Betts Corp. v. Leviton Mfg. Co.*, 681 A.2d 1026, 1035 (Del. 1996)).

⁴¹ *Frank v. Nat’l Hldgs. Corp.*, C.A. No. 2021-0160-MTZ, at 15–16 (Del. Ch. July 22, 2022) (TRANSCRIPT).

⁴² 8 *Del. C.* § 220(c).

⁴³ *Id.*; see also 8 *Del. C.* § 220(a)(1) (defining a corporation’s “books and records” for purposes of Section 220). I refer to these as the “Section (a)(1) books and records.”

records”—specifically, minutes of stockholder, board, or board committee meetings; written consents evidencing stockholder action without a meeting; annual financial statements; or director independence questionnaires (for publicly traded corporations)—the court may order the corporation to produce the “functional equivalent” of the missing books and records, but “only to the extent necessary and essential to fulfill the stockholder’s proper purpose.”⁴⁴

R. If a stockholder wants more than the stock ledger, list of stockholders, and Section (a)(1) books and records (or their functional equivalents in certain cases), the stockholder has a heavier burden. First, the stockholder must satisfy Section 220(b).⁴⁵ Second, the stockholder must show a “compelling need” to inspect these additional corporate records.⁴⁶ Third, the stockholder must show by “clear and convincing evidence” that “such specific records are necessary and essential to further such purpose.”⁴⁷

⁴⁴ *Unation*, 2025 WL 3706330, at *5.

⁴⁵ 8 *Del. C.* § 220(g)(1).

⁴⁶ 8 *Del. C.* § 220(g)(2). This means plaintiff must establish that “the records sought are pivotal to [his] stated purpose and that [he] would not be able to obtain the information therein from Section 220(a)(1) books and records (or another source).” *Unation*, 2025 WL 3706330, at *23.

⁴⁷ 8 *Del. C.* § 220(g)(3). “Evidence is clear and convincing if it ‘produces an abiding conviction that the truth of the contention is highly probable.’” *Unation*, 2025 WL 3706330, at *24 (quoting *Hudak v. Procek*, 806 A.2d 140, 147 (Del. 2002)). “To establish proof by clear and convincing evidence means to prove something that is highly probable, reasonably certain, and free from serious doubt.” *Id.*

IT IS ORDERED, this 5th day of October, 2026, that:

1. The Company does not dispute plaintiff's stockholder status, nor has it raised an issue with plaintiff's compliance with the form and manner requirements for making a demand under Section 220.⁴⁸ The balance of this Report thus focuses on the disputed issues: whether plaintiff's stated purposes for inspection are proper purposes and, if so, whether plaintiff has met the required evidentiary threshold to show his entitlement to the books and records he seeks. The court finds two of plaintiff's purposes are proper and he is entitled to some additional documents.

Plaintiff's Purposes

2. The parties dispute whether plaintiff has met his burden to demonstrate a proper purpose. Plaintiff argues five independent purposes: (1) valuation; (2) investigating mismanagement; (3) investigating related-party transactions; (4) determining dilutive effect of the equity issuance; and (5) assessing the Company's current financial condition. The Company suggests these purposes fall into two recognized purposes: investigating wrongdoing and valuation.⁴⁹ It contends neither of these is a proper purpose for giving plaintiff additional records because plaintiff has not established a credible basis to investigate wrongdoing and

⁴⁸ See Answer ¶ 4; Def.'s Ex. 8; Answering Br. 6–7.

⁴⁹ Answering Br. 11.

has not established a present need for valuation materials beyond what the Company has already given him.⁵⁰ I find plaintiff has established two of his purposes are proper: valuation and investigating related-party transactions.

3. **Valuation.** Plaintiff's purpose of valuation is proper.⁵¹ The Company argues plaintiff has no present need for valuation materials and that under *Helmsman Management Services v. A & S Consultants*, his purpose of valuation is thus in bad faith.⁵² But the Company misunderstands the standard. "*Helmsman* did not hold that stockholder must demonstrate a need to value [his] shares to satisfy [his] burden under Section 220. The *Helmsman* decision instead reflects the settled proposition of law that a valuation purpose must be [in good faith]."⁵³ It is thus the Company's burden to prove plaintiff's purpose is not his true purpose, and that his true purpose is improper.⁵⁴ The Company's conclusory allegations of harassment and its contention that plaintiff has sufficient valuation information are insufficient to meet

⁵⁰ *Id.* at 12.

⁵¹ See *Thomas & Betts Corp. v. Leviton Mfg. Co.*, 685 A.2d 702, 713 (Del. Ch. 1995), *aff'd*, 681 A.2d 1026 (Del. 1996) (stating valuation, particularly for private companies, has long been recognized as a proper purpose).

⁵² See Answering Br. 12 (citing *Helmsman Mgmt. Servs., Inc. v. A & S Consultants, Inc.*, 525 A.2d 160, 165 (Del. Ch. 1987)).

⁵³ *Woods*, 238 A.3d at 893.

⁵⁴ See *id.* at 891.

this burden.⁵⁵ Other arguments here largely relate to whether further production is necessary, not whether plaintiff's purpose is proper.⁵⁶

4. ***Investigating Possible Mismanagement.*** Investigating possible wrongdoing or mismanagement is “[o]ne of the most traditional proper purposes for a [Section] 220 demand[.]”⁵⁷ “[T]o establish such a purpose, ‘a member must present some evidence to suggest a credible basis from which a court can infer that . . . wrongdoing may have occurred.’”⁵⁸ “The credible basis standard imposes the lowest possible burden of proof . . . [and] . . . does not require a member to show by a preponderance of the evidence that wrongdoing is probable.”⁵⁹ “It requires only that a member establish by a preponderance of the evidence that there is a credible basis to suspect a possibility of wrongdoing.”⁶⁰ “That burden may be satisfied by a credible showing, through documents, logic, testimony or otherwise, that there are legitimate issues of wrongdoing.”⁶¹ “In applying the standard to a plaintiff’s demand, ‘the court

⁵⁵ See Answering Br. 1, 12.

⁵⁶ *Id.* at 20–22.

⁵⁷ *KT4 P’rs v. Palantir Techs. Inc.*, 203 A.3d 738, 758 (Del. 2019).

⁵⁸ *Garner v. Authenticity.ai Invs., LLC*, 334 A.3d 1108, 1126 (Del. Ch. 2025) (quoting *Gill v. Regency Hldgs., LLC*, 2023 WL 4607070, at *13 (Del. Ch. June 26, 2023)).

⁵⁹ *Id.* (alteration and omissions in original).

⁶⁰ *Id.*

⁶¹ *Id.*

may consider ongoing lawsuits, investigations, circumstantial evidence, and even hearsay statements evincing possible wrongdoing.”⁶²

5. Here, plaintiff’s purported credible basis to infer possible mismanagement consists only of his contention that the April 2025 Deals “converted a profitable operation into one sustaining a net loss every month.”⁶³ This is not enough—Delaware law is clear that a company’s poor financial performance, by itself, is insufficient to infer wrongdoing unless protracted or extreme,⁶⁴ which is not alleged here. Plaintiff has not met his burden to establish a proper purpose to investigate potential wrongdoing or mismanagement.

6. ***Investigating Potential Related-Party Transactions.***

In the Demand, plaintiff says he wants to investigate potential related-party transactions in the April 2025 Deals and determine “whether the acquisition involved any conflict of interest.”⁶⁵ He says the “structural features” of the transaction “support investigating whether any director, officer, or significant stockholder held an interest in the counterparty or the financing.”⁶⁶ And he argues that to require him to produce any evidence of self-dealing “would read the investigatory purpose out of the

⁶² *Gross v. Biogen Inc.*, 2021 WL 1399282, at *9 (Del. Ch. Apr. 14, 2021).

⁶³ Opening Br. 11–12.

⁶⁴ *Woods*, 238 A.3d at 894.

⁶⁵ Demand 2; *see also* Compl. ¶ 16; Opening Br. 12; Reply Br. 10.

⁶⁶ Opening Br. 12.

statute for every private corporation in Delaware.”⁶⁷ The Company points out plaintiff concedes he has “no evidence to suggest self-dealing” in the April 2025 Deals.⁶⁸ It says plaintiff admits “no support for his claim of purported ‘related-party involvement’ and is seeking only a fishing expedition.”⁶⁹ As a result, the Company concludes, plaintiff “failed to carry his burden of showing a credible basis of . . . related-party involvement with respect to the [April 2025 Deals].”⁷⁰

7. Plaintiff’s purpose to understand if any related-party transactions took place in connection with the April 2025 Deals is proper. In *Woods*, the court held, unambiguously, “how directors and senior officers are compensated and whether they are the beneficiaries of any related-party transactions are basic facts that stockholders are entitled to know Some information is so foundational that a desire to have that information is itself a proper purpose.”⁷¹ As the court explained:

The residual claimants are entitled to know how their fiduciaries are taking money out of the corporation. A stockholder should not have to point to a valuation purpose or assert suspicions about corporate wrongdoing to be

⁶⁷ Reply Br. 10.

⁶⁸ Answering Br. 18–19.

⁶⁹ *Id.* at 19.

⁷⁰ *Id.* at 20.

⁷¹ *Woods*, 238 A.3d at 901.

able to learn how much money the directors and senior officers are receiving.⁷²

Thus, under *Woods*, plaintiff need not put forth a credible basis to suspect the April 2025 Deals included related-party transactions.⁷³

8. ***Determining the Dilutive Effect of the Equity Issuance.*** I decline to find that determining a transaction’s dilutive effect constitutes a proper purpose independent of valuation or investigating wrongdoing. Plaintiff’s stated purpose to that end must fall within one of those categories: either he seeks to value his shares following the April 2025 Deals or he seeks to investigate whether those transactions wrongfully diluted his interest. The former will be resolved as part of plaintiff’s proper purpose of valuation. As to the latter, plaintiff failed to establish a credible basis to infer wrongdoing. The existence of dilution is not evidence of wrongful dilution.

9. ***Assessing the Company’s Financial Condition.*** Assessing the Company’s financial condition falls within the recognized

⁷² *Id.*

⁷³ If plaintiff were required to establish a credible basis, I would find he has not. Plaintiff offers nothing more than suspicion, pointing to the overall terms of the Spitfire Audio acquisition and arguing “[t]he combination of a \$53 million transaction financed with expensive debt and new equity in a single month, followed by immediate and sustained net losses” provides a credible basis to infer potential self-dealing. See Compl. ¶ 16; Opening Br. 12. As a basis to investigate potential wrongdoing, this would not be enough under Delaware law. See *Fairthorne Maint. Corp. v. Ramunno*, 2007 WL 2214318, at *8 (Del. Ch. July 20, 2007) (explaining a stockholder has not established a credible basis when their demand uses conditional language stating a desire to learn “if” or “whether” something happened) (citing authorities).

proper purpose of valuation. This court has treated a stockholder's desire to understand a company's financial condition as part of valuing the stockholder's interest.⁷⁴ Here, assessing the Company's financial condition describes how plaintiff proposes to evaluate his shares and is not a separate purpose for inspection.

The Scope of the Inspection

10. Because plaintiff has met the test for an inspection, the court must determine its scope.⁷⁵ Plaintiff, as explained, seeks eight categories of documents.⁷⁶ Because the court has found only two of plaintiff's purposes proper, the requested records are necessary and essential only if they fill a material gap in the information plaintiff needs to value his shares or to learn if the Company engaged in related-party transactions. The annual financial statement and stockholder list already produced by the Company⁷⁷ satisfy part, but not all, of those needs.

11. For valuation, plaintiff needs the capitalization table sought in Category 5. The capitalization table is not one of the Section 220(a)(1) books and records, but I find plaintiff has demonstrated by clear and convincing evidence the Company's current capitalization

⁷⁴ See, e.g., *Gill*, 2023 WL 4607070, at *13.

⁷⁵ See *Woods*, 238 A.3d at 896.

⁷⁶ See *supra* ¶ H.

⁷⁷ See Def.'s Exs. 7 (financial statement), 16 (stockholder list).

table is necessary and essential to his valuation purpose and plaintiff has shown a compelling need for it under Section 220(g).⁷⁸ The financial statement provides information about the Company's value, but the stockholder list does not explain how that value is allocated among common and preferred shares. Liquidation preferences, conversion rights, and other rights bear directly on the value of plaintiff's interest. Plaintiff cannot meaningfully value his interest without a current capitalization table. Further, past capitalization tables dating back to January 2024 are not necessary and essential. Nor do they lend to a compelling need so plaintiff has not met his heightened burden under Section 220(g) for those materials.

12. For information about related-party transactions, Categories 3 and 7 overlap. Formal board materials addressing related-party transactions in connection with the April 2025 Deals, and any director and officer independence questionnaires presented to the board, are necessary to identify if there were any related-party transactions and the interests involved. Those records, which are Section 220(a)(1) books and records,⁷⁹ are sufficient for that purpose.⁸⁰

⁷⁸ See 8 *Del. C.* § 220(g).

⁷⁹ See 8 *Del. C.* § 220(a)(1)e., f., i.

⁸⁰ For records that are not Section 220(a)(1) books and records, I find plaintiff has not shown a compelling need for such records nor met his burden to establish by clear and convincing evidence that such records are necessary and essential to his stated purpose. See 8 *Del. C.* § 220(g); *Unation*, 2025 WL 3706330, at *23–26.

13. The remaining requests are neither necessary nor essential. For Categories 1 and 2, the court finds the Company's existing production sufficient. For Category 4, the debt facility affects equity value, but plaintiff has not identified information essential to his purposes that requires the underlying loan agreement, term sheet, or amendments. For Category 6, the valuations and fairness opinions described could assist valuation (if they exist) but they are neither necessary nor essential given the financial and capitalization information already produced or ordered produced. Finally, for Category 8, the capitalization information and the related-party transaction materials already address the ownership structure, share rights, and potential insider interests implicated by this category; plaintiff has not shown that the broad scope of material sought by Category 8 is necessary and essential to his proper purposes.

Confidentiality

14. Production shall be subject to a confidentiality agreement identical to the July 22, 2026 agreement signed by the parties.⁸¹ Section 220 permits reasonable restrictions on the confidentiality, use, and distribution of records, including those produced under Section 220(g).⁸² Applying the terms the parties recently accepted will protect the

⁸¹ *See generally* Pl.'s Ex. 6.

⁸² 8 *Del. C.* § 220(b)(3), (h); *see also Sobotta v. Return Logic, Inc.*, 2025 WL 3541436, at *5 (Del. Ch. Nov. 21, 2025).

Company's nonpublic information while permitting plaintiff to use the records for his proper purposes. The parties' most recently agreed-upon confidentiality agreement is reasonable, so I adopt it here. This does not prevent either side from moving to modify the confidentiality order for good cause.

* * *

15. Plaintiff is entitled to production of the Company materials described above, subject to the confidentiality agreement. The parties must meet and confer on what records are in the Company's possession, custody, or control that satisfy plaintiff's proper purposes in accordance with my rulings and submit a proposed form of order implementing this Report.

16. Plaintiff is not entitled to an award of costs and expenses.⁸³ "Under the American Rule, litigants are generally responsible for their own costs."⁸⁴ "Court of Chancery Rule 54(d), however, creates an exception to the general rule whereby costs 'shall be allowed as of course to the prevailing party unless the court otherwise directs.'"⁸⁵ "Under Rule 54(d), the 'prevailing' party is a party who successfully prevails on the merits of the main issue or the party who prevailed on *most* of her

⁸³ See Compl., Prayer for Relief (c); Opening Br. 23; Reply Br. 15.

⁸⁴ *Adams v. Calvarese Farms Maint. Corp., Inc.*, 2010 WL 3944961, at *24 (Del. Ch. Sept. 17, 2010).

⁸⁵ *Id.* (quoting *FGC Hldgs. Ltd. v. Teltronics, Inc.*, 2007 WL 241384 (Del. Ch. Jan. 22, 2007)).

claims.”⁸⁶ “Courts interpret the term ‘prevailing’ to mean that a party need not be successful on all claims, but rather must succeed on a general majority of claims.”⁸⁷ “Moreover, the Court of Chancery has ‘wide discretion’ in awarding or apportioning costs in each particular case, including the discretion to find that no party may be regarded as having prevailed.”⁸⁸

17. Here, no party has prevailed. Plaintiff succeeded on some documents for some purposes, but he did not prevail on the majority of his purposes and most of his document requests were overbroad or superfluous. For that reason, plaintiff must bear his own costs.

18. This is a Report under Court of Chancery Rule 144(b)(1). It is not a Final Report under Rule 144(b)(2) because it does not conclude this action. Under Rule 144(c)(2)(A), a party who wishes to file exceptions to this Report may only do so after entry of the Final Report.

/s/ Christian Douglas Wright
Magistrate in Chancery

⁸⁶ *Id.* (quoting *Brandin v. Gottlieb*, 2000 WL 1005954, at *27 (Del. Ch. July 13, 2000)) (emphasis in original).

⁸⁷ *Id.*

⁸⁸ *Id.*