

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

LEO INVESTMENTS HONG)
KONG LIMITED, a limited liability)
company organized under the laws of)
Hong Kong,)

Plaintiff,)

v.)

C.A. No. 2022-0175-JTL

TOMALES BAY CAPITAL)
ANDURIL III, L.P., a Delaware)
limited partnership, and TOMALES BAY)
CAPITAL ANDURIL III GP, LLC, a)
Delaware limited liability company, and)
IQBALJIT KAHLON, Managing Member)
of Tomales Bay Capital Anduril III GP,)
LLC,)

Defendants.)

**ORDER ADDRESSING MOTIONS
FOR CONTINUED CONFIDENTIAL TREATMENT**

1. Tomales Bay Capital Anduril III, L.P., Tomales Bay Capital Anduril III GP, LLC, and Iqbaljit Kahlon (collectively, the “Fund”) have moved for continued confidential treatment of JX 536 and JX 537. Non-party Space Exploration Technologies Inc., (“SpaceX”) has moved for continued confidential treatment of JX 54 and JX 540.

2. Pro Publica, Inc. opposes the requests for confidential treatment. For JX 54, Pro Publica only challenges the confidential treatment of information from

2012–2020. For JX 540, Pro Publica only challenges the redaction of two labels and a section of commentary.

3. The Delaware Constitution provides that “[a]ll courts shall be open.” Del. Const. art. I, § 9. Rule 5.1 embodies this principle. *Horres v. Chick-fil-A, Inc.*, 2013 WL 1223605, at *2 (Del. Ch. Mar. 27, 2013). Rule 5.1(a) declares that “[c]ourt proceedings are matters of public record” and that “[p]apers filed . . . must be available to the public.” Ct. Ch. R. 5.1(a).

4. Rule 5.1 allows parties to redact information “(A) that is maintained confidentially; (B) that is not otherwise publicly available; (C) where public access to the information will cause particularized harm; and (D) where the magnitude of the harm from public access to information outweighs the public interest in the information.” Ct. Ch. R. 5.1(b)(2). Rule 5.1 thus permits “narrow and continued confidential treatment of discrete information of low interest to the public, disclosure of which would impose significant costs on a litigant.” *Alixpartners, LLP v. Thompson*, 2019 WL 4014819, at *6 (Del.Ch. Aug. 19, 2019) (ORDER) (cleaned up).

5. As the parties seeking confidential treatment, the Fund and SpaceX bear “the burden of persuading the court that confidential treatment is warranted.” Ct. Ch. R. 5.1(g)(6)(D).

6. A party that seeks confidential treatment must identify a particularized harm and provide “tangible evidence of concrete damage.” *In re Oxbow Carbon LLC*, 2016 WL 7323443, at *2 (Del. Ch. Dec. 15, 2016) (quoting *Kronenberg v. Katz*, 872 A.2d 568, 609 (Del. Ch. 2004)). General or theoretical harms

are not enough. *Manhattan Telecomms. Corp. v. Granite Telecomms., LLC*, 2020 WL 6799122, at *3 (Del. Ch. Nov. 19, 2020).

7. The Fund failed to establish good cause for continued confidential treatment for JX 536 and JX 537. Those documents contain the names of the Fund's investors.

a. The Fund contends that confidential treatment is justified because the Fund and its affiliates "take great care to keep the identities of their investors from the public eye," and that disclosure will cause the Fund and their investors great harm. Dkt. 313 ¶ 9. To establish harm, the Fund asserts only that disclosure will undermine the trusted relationship the Fund has developed with its investors. *Id.* at ¶ 13. The Fund also claims that "target companies may think twice" about permitting the Fund to invest. *Id.*

b. Those reasons are not particularized. They amount to the circular claim that the information needs to be kept confidential because it has been kept confidential.

c. Those reasons also appear to be exaggerations. The record shows that the Fund has been relatively cavalier about keeping the identities of its investors private. As the court found in the opinion, after signing up Leo Group as an investor, Kahlon contacted Lance Liu, an investor and friend based in China, and asked him if he had any other potential investors for SpaceX. "Kahlon added, 'If it helps we just got a 50m [sic] check from LEO.cn [sic] between us. So might help with folks in terms of speed. I don't know if leo [sic] is well known in China but it's a

18b[illion] business.” Dkt. 277 at 17-18. This is an issue where Kahlon’s own conduct undermines his claims.

d. In addition to not making a particularized showing of harm, the Fund has not established any harm that outweighs the public interest. The court cited both exhibits in its post-trial decision. Dkt. 277 at 4–5, 11. “The right of access reaches its peak for materials a judge considers when making a decision, and particularly for trial materials.” *Leo Inv. Hong Kong Ltd. v. Tomales Bay Cap. Anduril III, L.P.*, 2025 WL 2643328, at * 10 (Del. Ch. Sept. 15, 2025). The court cited JX 536 and JX 537 for the proposition that before the events leading to this lawsuit, the Fund never had a Chinese investor whose shares were listed on a public exchange. Dkt. 277 at 5, 11. The public is entitled to obtain access to the information that the court used in making that finding.

e. When litigating in a public court, parties assume “accompanying responsibilities, including the need to disclose previously non-public information in order to satisfy the public’s right of access to court documents.” *Al Jazeera Am., LLC. v. AT&T Servs., Inc.*, 2013 WL 5614284, at *7 (Del. Ch. Oct. 1, 2013). The Fund must file JX 536 and JX 537 publicly. The Fund may only redact “personally identifying information such as social security numbers, complete financial account numbers, dates of birth, and the names of minor children, which the filer should omit or redact under Rule 5(k).” Ct. Ch. R. 5.1(b)(3)(C).

8. SpaceX failed to establish good cause to for the continued confidential treatment of the information Pro Publica seeks in JX 54. That document

is a SpaceX financial forecast and model that includes financial information and forecasts from 2012 through 2027. Pro Publica only seeks information from 2012–2020. Dkt. 321 at 3.

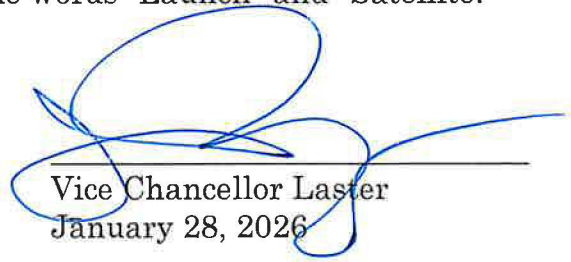
a. SpaceX contends that the redacted information is competitively sensitive. That argument fails for the historical information that that Pro Publica seeks, which is presumptively stale. Rule 5.1(g) reflects a determination that three years of confidential treatment eliminates the potential harm of public exposure. Information more than three years old is presumptively stale, lacks competitive value, and cannot lead to particularized harm. *See e.g., ADT Hldgs.*, 2017 WL 4317245, at *2; *Oxbow Carbon*, 2016 WL 7323443, at *2. Here, Pro Publica seeks information from 2020 and earlier.

b. The court cited JX 54 when issuing its decision, making public access a priority. The case for confidentiality is therefore weak, while the case for public access is strong.

c. SpaceX must file a version of JX 54 without redacting information from 2020 and earlier.

9. JX 540 is a mixed bag. SpaceX redacted the word “Launch” from the label “Launch Revenue” and the word “Satellite” from the label “Satellite Revenue.” Those words are not entitled to confidential treatment. Pro Publica also challenges SpaceX’s redaction of a commentary section containing two bullet points, one of which has two sub-bullets. The commentary adds color to the financial figures and is comprehensible only when read in context with the forecasts that Pro Publica

does not seek. The commentary therefore can remain confidential. SpaceX must file a version of JX 540 that does not redact the words "Launch" and "Satellite."



Vice Chancellor Laster
January 28, 2026