

Before the
Administrative Hearing Commission
State of Missouri



DELTA EXTRACTION, LLC,)	
)	
Petitioner,)	
)	
v.)	No. 23-0608
)	
DEPARTMENT OF HEALTH AND SENIOR)	
SERVICES,)	
)	
Respondent.)	

PROTECTIVE ORDER

On October 19, 2023, the Department of Health and Senior Services (Department) filed a motion for protective order pursuant to 1 CSR 15-3.420(1) and Missouri Rule of Civil Procedure 56.01 with a proposed protective order consented to by Delta Extraction, LLC.

We issue the following protective order, as modified, regarding the parties' disclosure of documents and information regarding Petitioner's and other licensees' trade secrets or financial and proprietary information, and the Department's investigations of other licensees.

1. This Protective Order governs the use of "Confidential Material," which shall refer to documents, and other materials provided during the course of discovery in this action.
2. The parties may designate documents as "CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER" in order to safeguard and protect such documents from public disclosure and keep such documents confidential.

3. It shall be the obligation of the parties to mark as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” any documents or interrogatory responses provided in discovery which a party believes to contain Confidential Information.

4. If a deposition requires the disclosure of Confidential Material, the portions of the deposition disclosing Confidential Information shall be designated as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” and shall be subject to the provisions of this Protective Order. Such designation shall be made on the record during the deposition whenever possible, but a party may designate portions of depositions as confidential after transcription, provided written notice is promptly given to all counsel within 30 days after notice by the court reporter of the completion of the transcript.

5. All Confidential Material will be used or disclosed only for the purpose of the hearing and preparation therefor, including discovery, motion practice, evidentiary hearings, and any appeal.

6. Within 60 days of the final conclusion of this case, including execution of any settlement, verdict and any post-trial motions or appellate proceedings, Petitioner shall destroy all Confidential Material or confirm that such persons, including expert witnesses, have destroyed all such Confidential Material. Respondent shall maintain Confidential Material as required by Article XIV of the Constitution.

7. Confidential Material may be disclosed to only the following persons:

- a. The parties to this action, as well as employees of the parties, to the extent such disclosure is necessary for preparation, trial, or other proceedings in this matter;
- b. Attorneys in the offices of counsel of record who are actively working on this case, as well as paralegals, clerical staff, and other assistants, whose

assistance is required by said attorneys in preparation of the case, at trial, or at other proceedings in this matter;

- c. Outside counsel to the parties to this matter, as well as paralegals, clerical staff, and other assistants in the offices of outside counsel;
- d. Expert witnesses and consultants retained in connection with this proceeding, to the extent such disclosure is necessary for preparation, trial, or other proceedings in this case;
- e. Stenographic reporters who are engaged in proceedings necessarily incident to the conduct of this matter; and
- f. This Commission, including staff members.

8. In the event Confidential Material is introduced into evidence or otherwise filed with this Commission during the pendency of this matter, such documents shall be labeled “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER.” If either party desires any Confidential Material to be sealed upon the filing of it with this Commission, the party has the burden of filing a motion to close the document or exhibit, in whole or in part (with proper redaction), in accordance with 1 CSR 15-3.410. Labeling a document “CONFIDENTIAL” without seeking to close the document pursuant to 1 CSR 15-3.410 will not be cause for the document to be deemed closed by this Commission.

9. Nothing contained herein shall prevent any of the parties from using Confidential Material in connection with any motion filed with this Commission, or in hearing or any other proceeding in this matter.

10. This Protective Order is binding on the parties, their counsel, employees, representatives, agents, affiliates, consultants, and experts.

11. Except as otherwise provided herein, inadvertent failure to designate material as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” shall not be deemed a waiver of

any claim of confidentiality as to such material, and the same thereafter may be corrected by supplemental written notice and substitute copies of the documents bearing the “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” designation.

12. In the event any party inadvertently discloses Confidential Material to someone not authorized to receive such information under this protective order, the party shall upon learning of the disclosure: (1) immediately notify the person to whom the inadvertent disclosure was made that it may contain confidential information subject to this order; (2) immediately make all reasonable efforts to preclude further dissemination or use by the person to whom disclosure was inadvertently made; and (3) immediately notify the other party of the information that was inadvertently disclosed, the identity of the person(s) to whom disclosure was inadvertently made, the circumstances surrounding disclosure, and the steps taken to ensure against the dissemination or use of the information.

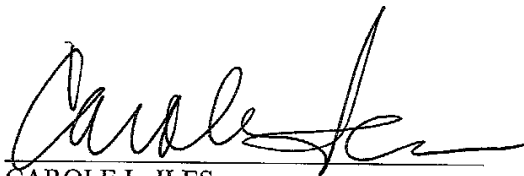
13. In the event that either party disputes the designation of Confidential Material, it shall inform the other party by providing written notice, and the parties shall promptly meet and confer in a good faith effort to resolve the dispute. In the event the parties are unable to resolve a dispute regarding designation of Confidential Material as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER,” either party may request appropriate relief from this Commission 30 business days after said written notice of its disagreement. The challenged designation and categorization shall remain in effect until changed by order of this Commission or agreement of the designating party.

14. Nothing in this Protective Order shall preclude any party from petitioning this Commission for additional protection with respect to any litigation material as that party considers necessary and appropriate, including asking to modify this protective order in any respect.

15. Nothing in this order shall prejudice the right of any party to contest the alleged relevancy, admissibility, or discoverability of any information sought.

16. The termination of this litigation shall not relieve any person or party that has received Confidential Information of his, her, or its obligations under this order.

SO ORDERED on October 25, 2023.

A handwritten signature in black ink, appearing to read 'Carole L. Iles', written over a horizontal line.

CAROLE L. ILES
Commissioner