

<b>Matter of Bronfman</b>
2007 NY Slip Op 30159(U)
March 8, 2007
Surrogate's Court, Nassau County
Docket Number: 0307375
Judge: John B. Riordan
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SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

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In the Matter of the Settlement of the Second  
Intermediate Account (covering the period from  
May 19, 1995 to December 31, 2001) of

File No. 307375

Edgar M. Bronfman, Edgar Bronfman, Jr.,  
Matthew Bronfman, Mildred Kalik, Mayo A.  
Shattuck III, John S. Weinberg, Harold R.  
Handler and John L. Weinberg, as Trustees of  
the EDGAR BRONFMAN, JR. TRUST under  
agreement dated May 1, 1942, between Samuel A.  
Bronfman, as Donor, and Allan Bronfman,  
Lazarus Phillips, and Henry Gordon Norman,  
as Trustee for the benefit of

Dec. No. 88

EDGAR BRONFMAN, JR.

and for other relief.

-----X  
-----X

In the Matter of the Settlement of the Second  
Intermediate Account (covering the period from  
May 19, 1995 to December 31, 2001) of

File No. 307376

Edgar M. Bronfman, Edgar Bronfman, Jr.,  
Matthew Bronfman, Mildred Kalik, Mayo A.  
Shattuck III, John S. Weinberg, Harold R.  
Handler and John L. Weinberg, as Trustees of  
the EDGAR BRONFMAN, JR. TRUST under  
agreement dated May 1, 1942, between Samuel A.  
Bronfman, as Donor, and Allan Bronfman,  
Lazarus Phillips, and Henry Gordon Norman,  
as Trustee for the benefit of

Dec. No. 89

EDGAR M. BRONFMAN,

and for other relief.

-----X

-----X  
In the Matter of the Settlement of the Second  
Intermediate Account (covering the period from  
May 19, 1995 to December 31, 2001) of

File No. 307374

Edgar M. Bronfman, Edgar Bronfman, Jr.,  
Matthew Bronfman, Mildred Kalik, Mayo A.  
Shattuck III, John S. Weinberg, Harold R.  
Handler and John L. Weinberg, as Trustees of  
the EDGAR BRONFMAN, JR. TRUST under  
agreement dated May 1, 1942, between Samuel A.  
Bronfman, as Donor, and Allan Bronfman,  
Lazarus Phillips, and Henry Gordon Norman,  
as Trustee for the benefit of

Dec. No. 87

MATTHEW BRONFMAN,

and for other relief.

-----X

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SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X

In the Matter of the Settlement of the Second Intermediate Account (covering the period from May 19, 1995 to December 31, 2001) of

File No. 307372

Edgar M. Bronfman, Edgar Bronfman, Jr., Matthew Bronfman, Mildred Kalik, Mayo A. Shattuck III, John S. Weinberg, Harold R. Handler and John L. Weinberg, as Trustees of the EDGAR BRONFMAN, JR. TRUST under agreement dated May 1, 1942, between Samuel A. Bronfman, as Donor, and Allan Bronfman, Lazarus Phillips, and Henry Gordon Norman, as Trustee for the benefit of

Dec. No. 85

CLARE W. BRONFMAN

and for other relief.

-----X  
-----X

In the Matter of the Settlement of the Second Intermediate Account (covering the period from May 19, 1995 to December 31, 2001) of

File No. 307371

Edgar M. Bronfman, Edgar Bronfman, Jr., Matthew Bronfman, Mildred Kalik, Mayo A. Shattuck III, John S. Weinberg, Harold R. Handler and John L. Weinberg, as Trustees of the EDGAR BRONFMAN, JR. TRUST under agreement dated May 1, 1942, between Samuel A. Bronfman, as Donor, and Allan Bronfman, Lazarus Phillips, and Henry Gordon Norman, as Trustee for the benefit of

Dec. No. 84

SARA R. BRONFMAN,

and for other relief.

-----X

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X

In the Matter of the Settlement of the Second

Intermediate Account (covering the period from  
May 19, 1995 to December 31, 2001) of

File No. 307369

Edgar M. Bronfman, Edgar Bronfman, Jr.,  
Matthew Bronfman, Mildred Kalik, Mayo A.  
Shattuck III, John S. Weinberg, Harold R.  
Handler and John L. Weinberg, as Trustees of  
the EDGAR BRONFMAN, JR. TRUST under  
agreement dated May 1, 1942, between Samuel A.  
Bronfman, as Donor, and Allan Bronfman,  
Lazarus Phillips, and Henry Gordon Norman,  
as Trustee for the benefit of

Dec. No. 82

ADAM R. BRONFMAN,

and for other relief.

-----X  
-----X

In the Matter of the Settlement of the Second  
Intermediate Account (covering the period from  
May 19, 1995 to December 31, 2001) of

File No. 307370

Edgar M. Bronfman, Edgar Bronfman, Jr.,  
Matthew Bronfman, Mildred Kalik, Mayo A.  
Shattuck III, John S. Weinberg, Harold R.  
Handler and John L. Weinberg, as Trustees of  
the EDGAR BRONFMAN, JR. TRUST under  
agreement dated May 1, 1942, between Samuel A.  
Bronfman, as Donor, and Allan Bronfman,  
Lazarus Phillips, and Henry Gordon Norman,  
as Trustee for the benefit of

Dec. No. 83

HOLLY B. LEV

and for other relief.

-----X

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X

In the Matter of the Settlement of the Second  
Intermediate Account (covering the period from  
May 19, 1995 to December 31, 2001) of

File No. 307373

Edgar M. Bronfman, Edgar Bronfman, Jr.,  
Matthew Bronfman, Mildred Kalik, Mayo A.  
Shattuck III, John S. Weinberg, Harold R.  
Handler and John L. Weinberg, as Trustees of  
the EDGAR BRONFMAN, JR. TRUST under  
agreement dated May 1, 1942, between Samuel A.  
Bronfman, as Donor, and Allan Bronfman,  
Lazarus Phillips, and Henry Gordon Norman,  
as Trustee for the benefit of

Dec. No. 86

SAMUEL BRONFMAN II

and for other relief.

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The issue submitted for decision is the petitioners' threshold application to seal the records of these proceedings pursuant to 22 NYCRR ~216.1. Eight separate Second Intermediate Accounts have been filed with the court along with petitions for the judicial settlement of the trustees' accounts and proposed citations for each proceeding. The petitioners are the accounting co-trustees. The court notes that a similar application was granted by the court on December 23, 1998, vis-a-vis the trustees' First Intermediate Account.

The eight accounts filed with the court arise from an original family trust whose total value of assets as of December 31, 2001, is said to be approximately \$2.5 billion dollars. While the amount is large, that fact alone is certainly not dispositive of the issue of confidentiality. However, the magnitude of these trust estates and the nature of the family's personal concerns along with the various business interests maintained by family members do implicate certain aspects of the test used to decide these issues.

It is a bedrock principle of common law jurisprudence that the administration of justice does not take place in the dark. Therefore, there is a strong presumption that all court proceedings and documents filed in conjunction with them are open to the public (*Matter of Hoffman*, 284 AD2d 92 [1<sup>st</sup> Dept. 2001]). The people's expectation of judicial transparency has

been described as a compelling interest of “constitutional dimension” (*Danco Labs., Ltd. v Chemical Works of Gideon Richter, Ltd.*, 274 AD2d 1 [1<sup>st</sup> Dept. 2000]). However, this right is not absolute and confidentiality may be imposed on court proceedings either by statute for a class of proceedings (adoption, for example) or on a case by case basis by virtue of 22 NYCRR ~216.1. The latter is part of the Uniform Rules for the New York State Trial Courts and it provides that court records may be sealed upon a written finding of good cause that specifies the grounds for granting the relief.

While the term “good cause” is not defined in the regulation, the case law indicates that the test requires a balancing of interests between the public’s right to know and the parties’ legitimate interest in privacy (*Gryphon Dom. VI, LLC v App Int’l Fin. Co.*, 28 AD3d 322 [1<sup>st</sup> Dept. 2006]). An order denying public access to court proceedings or records must be narrowly tailored to serve compelling objectives, such as the need for secrecy that outweighs the public’s right to access (*Globe Newspaper Co. v Superior Ct.*, 457 U.S. 596 [1982]). In this regard, it is instructive to note the rationale offered by the courts in denying applications to seal. In *Matter of Emiro* (NYLJ, Aug. 27, 2004, at 20, col. 3 [Surr. Ct. Westchester Co.]), the court ruled that sealing order was not warranted for a medical malpractice stipulation because of the public interest in learning about the adverse effects that are linked to a drug that was the subject of the lawsuit. In *Matter of Hoffman* (NYLJ, Feb. 9, 2001, at 29, col. 4 [Surr. Ct. New York Co.]), the court ruled that “awareness of allegations of misconduct on the part of a corporate fiduciary which administers myriad trusts and estates and a prominent attorney who specializes in the field is critical to consumers of fiduciary services and the general public.” Finally, the court notes that 22 NYCRR ~216.1 was promulgated at least in part in response to concerns that sealing settled tort cases deprived the public of information that might alert it to possible defects in consumer products (*Matter of Twentieth Century Fox Films*, 190 AD2d 483 [1<sup>st</sup> Dept. 1993]).

In support of its application, the petitioners argue that the assets of the trust include major positions in several companies and that they believe these investments might be jeopardized by public knowledge. Moreover, and maybe more compelling, the petitioners argue of a compelling interest in privacy because one of the members of the family was the victim of a kidnaping as a young adult. The petitioners also point out that there is no comparable public interest in obtaining access to the information contained in the account other than “mere curiosity” and the “general need to keep legal proceedings open,” neither of which is sufficient to counterbalance the prejudice which would ensue from the disclosure of such information (*see Griffin v Scudder, Stevens & Clark*, NYLJ, June 28, 1991, at 22, col. 3 [Sup. Ct. New York Co.]).

Based upon the foregoing, the court grants the application to seal ab initio the records of all proceedings related to these accountings. Once citations have been issued and served, the respondents, if any, may move for renewal or reargument if deemed necessary.

This is the decision and order of the court. The papers will be sealed and submitted to the accounting department for processing.  
Dated: March 8, 2007

JOHN B. RIORDAN  
Judge of the  
Surrogate's Court