

D.E. Shaw Composite Holdings, L.L.C. v Terraform Power, LLC

2020 NY Slip Op 31408(U)

May 14, 2020

Supreme Court, New York County

Docket Number: 651752/2016

Judge: Jennifer G. Schechter

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. JENNIFER G. SCHECTER **PART** **IAS MOTION 54EFM**

Justice

-----X

INDEX NO. 651752/2016

D.E. SHAW COMPOSITE HOLDINGS, L.L.C., MADISON
DEARBORN CAPITAL PARTNERS IV, L.P.,

MOTION DATE _____

Plaintiffs,

MOTION SEQ. NO. 004

- v -

TERRAFORM POWER, LLC, TERRAFORM POWER, INC.,

**DECISION + ORDER ON
MOTION**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 302, 303, 304, 305, 315

were read on this motion to _____ **SEAL** _____.

Upon Plaintiffs' Unopposed Motion By Order to Show Cause For an Order Sealing or Redacting Certain Summary Judgment Filings, Dkt. Nos. 302-303 (the "Motion"),

WHEREAS certain documents submitted in connection with the parties' respective motions for summary judgment contain highly sensitive confidential personal and commercial information, including, but not limited to, personal contact information, personal compensation information, non-public information about investments, and other non-public information that was produced subject to strict limitations on disclosure, including the expectation that any such information included in the parties' summary judgment submissions would be redacted or filed under seal ("Confidential Sensitive Information");

WHEREAS disclosure of the Confidential Sensitive Information would undermine certain persons' personal privacy interests and certain entities' confidential commercial interests and cause harm to Plaintiffs, the entities in which they invest, their investors and others by disseminating sensitive non-public information to competitors and others;

WHEREAS the Confidential Sensitive Information is of limited relevance to the issues raised by the parties' respective summary judgment motions;

WHEREAS the public interest in disclosure is outweighed by the prejudice that Plaintiffs and others would suffer if the Confidential Sensitive Information were disclosed;

WHEREAS Plaintiffs have shown good cause why the documents containing Confidential Sensitive Information should be filed under seal or in redacted form;

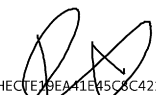
WHEREAS Defendants do not oppose the Motion;

NOW, THEREFORE it is hereby ORDERED that:

- (a) the Motion is GRANTED;
- (b) Defendants shall file under seal Exhibits 6, 7, 8, and 24 [Dkt. Nos. 149, 150, 151, and 167] to the Affirmation of Jed I. Bergman, Corrected, In Support of Defendants' Motion for Summary Judgment, dated January 15, 2020 [Dkt. No. 143], and the Clerk shall maintain those documents permanently under seal; and
- (c) the redacted versions of the following documents filed on the public docket shall remain redacted, unredacted versions shall be filed under seal, and the Clerk shall maintain those unredacted documents permanently under seal:
 - (i) Exhibit 5 (as originally filed [Dkt. No. 96] and as modified by agreement of the parties [Dkt. No. 307]) and Exhibit 39 [Dkt. No. 130] to the Affirmation of Shannon Rose Selden, dated January 15, 2020 [Dkt. No. 91];
 - (ii) Memorandum of Law in Support of Defendants' Motion for Summary Judgment, dated January 15, 2020 [Dkt. No. 136];

- (iii) Affirmation of Jed I. Bergman, Corrected, In Support of Defendants' Motion for Summary Judgment, dated January 15, 2020 [Dkt. No. 143];
- (iv) Exhibits 56, 63, 64, 65, 66, 67, 70, 71, 72, 76, 80, 81, 84, 89, 102, 105, 109, and 111 [Dkt. Nos. 199, 206, 207, 208, 209, 210, 213, 214, 215, 219, 223, 224, 227, 232, 245, 248, 252, and 254] to the Affirmation of Jed I. Bergman, Corrected, In Support of Defendants' Motion for Summary Judgment, dated January 15, 2020 [Dkt. No. 143];
- (v) Exhibits 99, 100, 101, 108, 110, and 112 (as originally filed [Dkt. Nos. 242, 243, 244, 251, 253, and 255] and as modified by agreement of the parties [Dkt. Nos. 309, 310, 311, 312, 313, and 314]) to the Affirmation of Jed I. Bergman, Corrected, In Support of Defendants' Motion for Summary Judgment, dated January 15, 2020 [Dkt. No. 143];
- (vi) Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion for Summary Judgment, dated February 20, 2020 [Dkt. No. 267];
- (vii) Affirmation of Jed I. Bergman in Support of Defendants' Opposition to Plaintiff's [sic] Motion for Summary Judgment, dated February 20, 2020 [Dkt. No. 268];
- (viii) Exhibits 113 and 122 [Dkt. Nos. 269 and 278] to the Affirmation of Jed I. Bergman in Support of Defendants' Opposition to Plaintiff's [sic] Motion for Summary Judgment, dated February 20, 2020 [Dkt. No. 268];
- (ix) Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment, dated February 20, 2020 [Dkt. No. 282];

- (x) Defendants' Reply Memorandum in Further Support of Their Motion for Summary Judgment, dated March 24, 2020 [Dkt. No. 294]; and
- (xi) Exhibit 123 [Dkt. No. 296] to the Affirmation of Jed I. Bergman in Support of Defendants' Reply in Further Support of Their Motion for Summary Judgment, dated March 24, 2020 [Dkt. No. 295].


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5/14/2020
DATE

JENNIFER G. SCHECTER, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>
			DENIED		OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/>	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/>	REFERENCE
				<input type="checkbox"/>	
				<input type="checkbox"/>	