

JG World Wide LLC v Virtuoso Ltd.
2020 NY Slip Op 32164(U)
June 30, 2020
Supreme Court, New York County
Docket Number: 656244/2019
Judge: Andrea Masley
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ANDREA MASLEY PART IAS MOTION 48EFM

Justice

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INDEX NO. 656244/2019

JG WORLD WIDE LLC et al,

MOTION DATE _____

Plaintiffs,

MOTION SEQ. NO. 001, 003

- v -

VIRTUOSO LTD.,

**DECISION + ORDER ON
MOTION**

Defendant.

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MASLEY, J.:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 32, 33, 34, 35, 36, 39, 40 and (Motion 003) 76, 77, 78, 79, 80, 81, 82, 83, and 84 were read on these motions to/for SEAL

In motion sequence number 001, defendant Virtuoso, Ltd. (Virtuoso) moves to seal NYSCEF Doc. Nos. 23, 24, 25, 26, 27, 28, 29, and 30.

Virtuoso argues that NYSCEF 26, 27, 28, 29 and 30 should be redacted because they contain financial and personal information concerning third parties who are not litigants here. This information includes the identity of the travelers that ultimately purchased vacation packages from Virtuoso's member travel agencies. It also includes banking information that Virtuoso argues should be redacted under NYCRR § 202.5 (e).

Virtuoso also argues that NYSCEF 23, 24, and 25 should be redacted because they contain commercially sensitive financial information relating to Virtuoso that does not concern the public interest. This information includes Virtuoso's marketing plan and the commission structure for its member agencies. Virtuoso argues that disclosing this information could harm its competitive advantage.

Plaintiffs do not oppose this motion. There is no indication that the press or public are interested in this matter.

Section 216.1(a) of the Uniform Rules for Trial Courts empowers courts to seal documents upon a written finding of good cause. It provides:

“(a) [e]xcept where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and an opportunity to be heard.

(b) For purposes of this rule, ‘court records’ shall include all documents and records of any nature filed with the clerk in connection with the action. Documents obtained through disclosure and not filed with the clerk shall remain subject to protective orders as set forth in CPLR 3103 (a).”

Judiciary Law § 4 provides that judicial proceedings shall be public. “The public needs to know that all who seek the court’s protection will be treated evenhandedly,” and “[t]here is an important societal interest in conducting any court proceeding in an open forum.” (*Baidzar Arkun v Farman-Farma*, 2006 NY Slip Op 30724[U],*2 [Sup Ct, NY County 2006] [citation omitted].) The public right of access, however, is not absolute. (*See Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000].)

The “party seeking to seal court records bears the burden of demonstrating compelling circumstances to justify restricting public access” to the documents. (*Mosalleem v Berenson*, 76 AD3d 345, 348-349 [1st Dept 2010] [citations omitted].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Labs.*, 274 AD2d at 9.)

In the business context, courts have sealed records where trade secrets are involved or where the disclosure of documents “could threaten a business’s competitive advantage.” (*Mosalleh*, 76 AD3d at 350-351 [citations omitted].) Additionally, the First Department has affirmed the sealing of records concerning financial information where there has not been a showing of relevant public interest in disclosure of the financing. (*See Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) For instance, in *Dawson v White & Case*, the First Department stated that the plaintiff-appellant failed to show “any legitimate public concern, as opposed to mere curiosity, to counter-balance the interest of defendant’s partners and clients in keeping their financial arrangement private.” (*Id.* [internal quotation marks and citation omitted].)

Nevertheless, Section 216.1 (a) of the Uniform Rules for Trial Courts acknowledges that there may be other statutes or rules that permit the sealing of information without a written finding of good cause from the court. One such rule is NYCRR § 202.5 (e) which provides that “the parties shall omit or redact confidential personal information in papers submitted to the court for filing.” To the extent that the banking information in these court records is confidential personal information, it may be redacted without leave of this court. (*See Maxim Inc. v Feifer*, 145 AD3d 516, 518 n 4 [1st Dept 2016].) Otherwise, good cause only exists to redact NYSCEF 26, 27, 28, 29, and 30 to the extent that these court records contain other third party-party financial information. Indeed, “[t]here [is] a compelling interest in sealing ... third-party financial information [because] disclosure could impinge on the privacy rights of third parties who are clearly not litigants.” (*Mancheski v Gabelli Group Capital Partners*, 39 AD3d 499, 502 [2d Dept 2007].) Good cause also exists to redact NYSCEF 23, 24, and 25 to the extent these court records contain financial information such as the marketing plan and

commission structure because disclosure could threaten Virtuoso's competitive advantage. (*Mosallem*, 76 AD3d at 350-351 [citations omitted].) Virtuoso has demonstrated its interest in keeping its financial arrangement private by submitting the affidavit of senior Vice President David Hansen on NYSCEF Doc. No. 34. (*See Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].)

Motion sequence number 003 is virtually identical to motion sequence number 001 and seeks to redact the same court records for the same reasons. (*Compare* NYSCEF Doc. No. 82 and 40.) It appears that Virtuoso filed this second sealing motion because the court records at issue in motion sequence number 001 were filed a second time on the docket albeit with a different NYSCEF number. Accordingly, motion sequence number 003 is moot.

Accordingly, it is

ORDERED that motion sequence no 001 is granted to the extent that Virtuoso shall redact NYSCEF Doc. Nos. 23, 24, 25, 26, 27, 28, 29, and 30 and their duplicates on the docket as directed by this decision and motion sequence 003 is moot; and it is further

ORDERED that the County Clerk, upon service to him of this order, shall seal NYSCEF Doc. Nos. 23, 24, 25, 26, 27, 28, 29, and 30 and their duplicates; and it is further

ORDERED that within 10 days of this order being filed on NYSCEF, Virtuoso shall file redacted versions of NYSCEF Doc. Nos. 23, 24, 25, 26, 27, 28, 29, and 30; and it is further

ORDERED that until further order of the court, the County Clerk shall deny access to the unredacted documents to anyone (other than the staff of the County Clerk

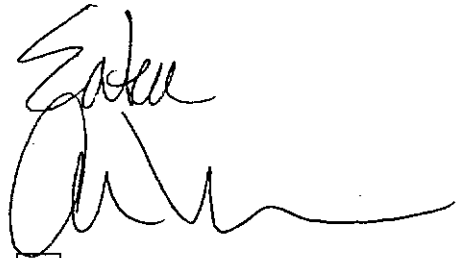
or the court) except for counsel of record for any party to this case, a party, and any representative of counsel of record for a party upon presentation to the County Clerk of written authorization from the counsel; and it is further

ORDERED that the parties shall redact future submissions to the extent the submissions contain the same information at issue here for which this court made a finding of good cause to seal including the duplicate documents filed at issue in motion sequence number 003; and it is further

ORDERED that this order does not authorize sealing or redacting for purposes of trial.

Motion Sequence Number 001

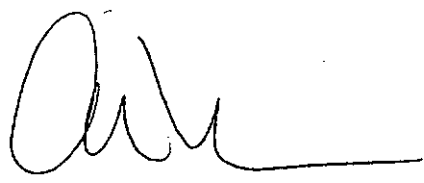
6/30/2020
DATE



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APPLICATION:	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>		<input type="checkbox"/>	

Motion Sequence Number 003

6/30/2020
DATE



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