

<b>Fruhling v Westreich</b>
2022 NY Slip Op 30327(U)
February 2, 2022
Supreme Court, New York County
Docket Number: Index No. 161487/2017
Judge: Andrea Masley
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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MICHAEL FRUHLING and ADAM HOCHFELDER,  
  
Plaintiffs,

INDEX NO. 161487/2017

MOTION DATE \_\_\_\_\_

- v -

MOTION SEQ. NO. 015

ANTHONY WESTREICH, MAX GLOBAL, LLC,  
FRIEDMAN, LLP, RICHARD KLASS, and JOHN DOE,  
XYZ CO.,

**DECISION + ORDER ON  
MOTION**

Defendants.

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 015) 408, 409, 410, 411, 412, 413

were read on this motion to/for SEAL.

In motion sequence number 015, defendants Anthony Westreich and Max Global LLC (Max Global) move, by Order to Show Cause, to seal NYSCEF Doc. Nos. [NYSCEF] 359, 360, 365, and 366 pursuant to Section 216.1(a) of the Uniform Rules for Trial Courts. Defendants made a prior motion requesting the sealing of these same records (motion sequence number 013), which was denied without prejudice.<sup>1</sup>

The requested records to be sealed are Max Global’s tax returns and were filed in connection with defendants’ motion for summary judgment. There is no opposition to this motion and no indication of interest by the press or public.

NYSCEF 359 is Max Global’s 2003 Form 1120 U.S. Corporation Income Tax Return. Defendants seek to seal this document because it contains non-public

<sup>1</sup> Motion sequence number 013 was denied without prejudice for defendants’ failure to support its motion with case law. (NYSCEF 392, Decision and Order [motion seq. no. 013].) The court again refers counsel to the Part 48 Procedures for guidance on filing a seal motion. (See especially Rule 13[A].)

information about Max Global, Westreich, and plaintiff Adam Hochfelder, and that this action concerns a private dispute between Westreich and Hochfelder.

NYSCEF 360 is Max Global's 2004 Form 1065 U.S. Return of Partnership Income. Defendants seeks to seal this document because it contains non-public information about Max Global, Westreich, and Hochfelder, and that this action concerns a private dispute between Westreich and Hochfelder.

NYSCEF 365 is Max Global's 2005 Form 1065 U.S. Return of Partnership Income. Defendants seek to seal this document because it contains non-public information about Max Global, Westreich, and Hochfelder, and that this action concerns a private dispute between Westreich and Hochfelder.

NYSCEF 366 is Max Global's 2013 Form 1065 U.S. Return of Partnership Income. Defendants seek to seal this document because it contains non-public information about Max Global, Westreich, and Hochfelder, and that this action concerns a private dispute between Westreich and Hochfelder.

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.”

Records concerning financial information may be sealed where there has not been a showing of relevant public interest in the disclosure of that information. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) More specifically, and in

the context of tax returns, “disclosure of tax returns is disfavored because of their confidential and private nature.” (*Weingarten v Braun*, 158 AD3d 519, 519 [1st Dept 2019] [citation omitted].) Thus, courts have found good cause to seal tax returns because they contain private, confidential, and sensitive information about personal finances and where there is minimal public interest. (See *People ex rel. Qui Tarn v Bayrock Group LLC*, 2017 NY Slip Op 30358[U], \*4-5 [Sup Ct, NY County 2017].) Defendants have shown good cause to seal Max Global’s tax returns because they contain non-public, sensitive financial information, and there has been no indication of any public interest. (*Id.*; see also *D’Amour v Ohrenstein & Brown LLP*, 17 Misc3d 1130[A], 2007 NY Slip Op 52207[U], \*21 [Sup Ct, NY County 2007] [finding good cause to seal tax returns].)

Accordingly, it is

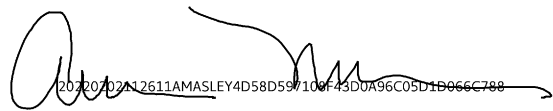
ORDERED that defendants’ motion is granted. As NYSCEF 359, 360, 365, and 366 have already been filed under temporary seal, defendants need not re-file duplicates; and it is further

ORDERED that the County Clerk, upon service to him of this order, shall permanently seal NYSCEF Doc. Nos. 359, 360, 365, and 366; and it is further

ORDERED the New York County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in the above-captioned action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that defendants are to serve a copy of this order on the County Clerk in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-filing" page on the court's website – www.nycourts.gov/supctmanh); and it is further

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



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2/2/2022  
DATE

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ANDREA MASLEY, J.S.C.

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED
<input checked="" type="checkbox"/>	GRANTED		

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	GRANTED IN PART		

APPLICATION:

<input type="checkbox"/>	SETTLE ORDER
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<input type="checkbox"/>	SUBMIT ORDER
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CHECK IF APPROPRIATE:

<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN
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<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE
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