

**GCDM Holdings, LP v Dyal Capital
Partners Mirror Aggregator (A) LP**

2022 NY Slip Op 32250(U)

July 11, 2022

Supreme Court, New York County

Docket Number: Index No. 651226/2021

Judge: Joel M. Cohen

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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GCDM HOLDINGS, LP, GCDM HOLDINGS GP, LLC, GIM HOLDINGS, LP, GIM HOLDINGS GP, LTD., GGP HOLDINGS, LP, GGP HOLDINGS GP, LLC,

Plaintiff,

- v -

DYAL CAPITAL PARTNERS MIRROR AGGREGATOR (A) LP, DYAL CAPITAL PARTNERS MIRROR AGGREGATOR (B-GIM) LP, DYAL CAPITAL PARTNERS MIRROR AGGREGATOR (B-GGP) LP, NB DYAL IV ADVISORS LLC, NB DYAL GP HOLDINGS LLC, NEUBERGER BERMAN GROUP LLC, NB ALTERNATIVES ADVISERS LLC

Defendant.

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INDEX NO. 651226/2021
MOTION DATE N/A, N/A, N/A
MOTION SEQ. NO. 004 008 010

DECISION + ORDER ON MOTION

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 004) 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 90, 91

were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 008) 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 211, 213

were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 010) 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 225

were read on this motion to/for SEAL

In Motion Sequence No. 004 Respondents-Defendants Neuberger Berman Group LLC and NB Alternatives Advisors LLC (collectively "Neuberger") move to seal NYSCEF Documents 45, 56, 65, 68, and 69. In Motion Sequence No. 008 Neuberger moves to seal NYSCEF Documents 97, 98, 199, 191, 114, 118 and, provisionally, NYSCEF Documents 124 and 125. In Motion Sequence No. 010 Respondents Dyal Capital Partners Mirror Aggregator (A) LP, Dyal Capital Partners Mirror Aggregator (B-GIM) LP, Dyal Capital Partners Mirror

Aggregator (B-GGP) LP, NB Dyal IV Advisors LLC, and NB Dyal GP Holdings LLC (collectively “Dyal”) move to seal NYSCEF 120, 121, 122, 123. Each of the motions are unopposed.

Neuberger moves to seal documents that include non-public commercially sensitive information (NYSCEF 85, 171 [Neuberger’s sealing charts]). Neuberger has submitted the Affidavits of William Braverman, its general counsel (NYSCEF 86, 172), who testifies, among other things that the relevant documents are the subject of confidentiality agreements, include confidential business strategies and other trade secrets as well as sensitive employee information. However, Neuberger does not sufficiently explain why NYSCEF Documents 124 and 125 (Exhibits 34 and 35 to the Golub Affidavit) should remain under seal.

Dyal similarly moves to seal documents that contain non-public financial information. (NYSCEF 222 [Dyal’s sealing chart]). Dyal has submitted the Affidavit of Sean Ward, its Managing Member (NYSCEF 216), who testifies that the relevant documents contain sensitive non-public business information.

Pursuant to § 216.1(a) of the Uniform Rules for Trial Courts, this Court may seal a filing “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 of the parties” (22 NYCRR § 216.1[a]). Courts must balance the risk of privacy concerns stemming from the “disclosure of documents and information, including “personal and financial information,” against the “compelling public interest in exposure of this information,” if any (*see MBIA Ins. Corp. v. Countrywide Home Loans, Inc.*, 2013 WL 450030, at *9 [NY Sup Ct, NY County, Jan. 3, 2013] [Bransten, J.]).

In New York, “there is a broad presumption that the public is entitled to access to judicial proceedings and court records” (*Mosallem v Berenson*, 76 AD3d 345, 348-50 [1st Dept 2010]).

The party seeking to seal the court records has the burden to demonstrate compelling circumstances to justify restricting public access, which requires demonstrating “a sound basis or legitimate need to take judicial action” (*Danco Laboratories, Ltd. v Chemical Works of Gedeon Richter*, 274 AD2d 1, 6 [1st Dept 2000]).

The Court has reviewed the proposed documents which Neuberger and Dyal propose to be sealed in their entirety and finds – with the limited exception of NYSCEF Documents 124 and 125 – that they comport with the applicable sealing standards as laid out in *Mosallem*, 76 AD3d at 348-50, and its progeny, in that they contain sensitive financial information and confidential business strategies as well as employee information. Therefore, Neuberger’s and Dyal’s sealing motions are GRANTED IN PART and DENIED WITH LEAVE TO RENEW as to NYSCEF Documents 124 and 125.

It is therefore

ORDERED that Neuberger’s and Dyal’s motions are GRANTED; it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 97, 98, 100, 101 114, 118, 120, 121, 122 and 123 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

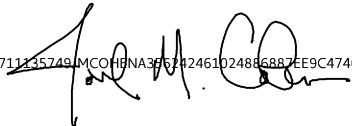
ORDERED that NYSCEF Documents 124 and 125 remain provisionally under seal and that Neuberger inform the Court by letter via NYSCEF and to sfc-part3@nycourts.gov within seven (7) days of this order if it maintains that those documents should remain under seal and Documents 124 and 125 shall be unsealed if no letter is received; it is further

ORDERED that Neuberger shall publicly file redacted versions of NYSCEF Document Numbers 45, 69, 100 and 101; it is further

ORDERED as it related to future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Order, parties may file a joint stipulation, to be So Ordered, which will authorize the filing of such future submissions to be filed in redacted form on NYSCEF, provided that an unredacted copy of any redacted document is contemporaneously filed under seal; and it is further

ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial.

The foregoing constitutes the Decision and Order of the Court.

20220711 12:35:49 J.MCOHEN NA396742461024886887EE9C4740E79EA


JOEL M. COHEN, J.S.C.

7/11/2022
DATE

CHECK ONE:

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| <input type="checkbox"/> | CASE DISPOSED | <input type="checkbox"/> | DENIED |
| <input type="checkbox"/> | GRANTED | | |
| <input type="checkbox"/> | SETTLE ORDER | | |
| <input type="checkbox"/> | INCLUDES TRANSFER/REASSIGN | | |

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| <input checked="" type="checkbox"/> | NON-FINAL DISPOSITION | <input type="checkbox"/> | OTHER |
| <input checked="" type="checkbox"/> | GRANTED IN PART | | |
| <input type="checkbox"/> | SUBMIT ORDER | | |
| <input type="checkbox"/> | FIDUCIARY APPOINTMENT | <input type="checkbox"/> | REFERENCE |

APPLICATION:

CHECK IF APPROPRIATE: