

Gedula 26, LLC v Lightstone Acquisitions III LLC

2022 NY Slip Op 32280(U)

July 13, 2022

Supreme Court, New York County

Docket Number: Index No. 653977/2014

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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GEDULA 26, LLC, 485 SHUR LLC, BSD 777-26
MANAGER LLC, BSD SHEVA MANAGER LLC,

Plaintiffs,

- v -

LIGHTSTONE ACQUISITIONS III LLC, 485 SEVENTH
AVENUE ASSOCIATES LLC, THE LIGHTSTONE
GROUP, LLC,

Defendants.

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INDEX NO. 653977/2014

MOTION DATE 04/13/2021

MOTION SEQ. NO. 016

**DECISION + ORDER ON
MOTION**

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 016) 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 969, 972, 973, 974, 975, 976, 1026, 1027

were read on this motion to SEAL.

Defendants Lightstone Acquisitions III LLC, 485 Seventh Avenue Associates LLC, and The Lightstone Group (collectively, the “Defendants”) and Plaintiffs Gedula 26, LLC, 485 Shur LLC, BSD 777-26 Manager LLC and BSD Sheva Manager, LLC (collectively, “Plaintiffs,” together with Defendants, the “Parties”), move for an order sealing and/or redacts certain exhibits filed in connection with their motions for summary judgment. For the following reasons, this motion is **granted**.

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]).

The Appellate Division has emphasized that “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 [1st Dept 2010]). “Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be *narrowly tailored to serve compelling objectives*, such as a need for secrecy that outweighs the public's right to access” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). “Furthermore, because confidentiality is the exception and not the rule, ‘the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access’” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]).

The Court has reviewed the exhibits as provided in Schedule A (NYSCEF 914) and finds 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, proprietary, and/or confidential business and financial information, including forecasts, financial modeling documents, internal finances relating to the building and hotel, and Defendants’ non-public financial statements, including general ledgers, operating statements, budgets, appraisals, and audits.

The Court has also reviewed the “Talassazan Records” (NYSCEF 909, 910, 911, 915, 916) and finds that redactions are appropriate as the records contain account numbers, routing numbers, addresses, tax ID numbers, social security numbers, wiring instructions, names of payees or credits, and monetary amounts (*In re Afilalo*, 139 AD3d 175 [1st Dept 2016]). Additionally, the settlement statement (NYSCEF 912) contains confidential bank account numbers, tax identification numbers, and wiring instructions of Plaintiffs and non-parties

unrelated to this case (*Mancheski v Gabelli Group Capital Partners*, 39 AD3d 499, 502 [2d Dept 2007] [“disclosure could impinge on the privacy rights of third parties who clearly are not litigants herein”]).

Accordingly, it is

ORDERED that the joint motion filed by the Parties is **granted**; it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 909, 910, 911, 912, 915, and 916 in their current, redacted form; it is further

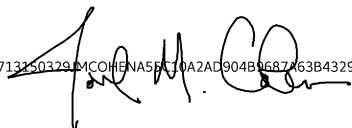
ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 914, 917, 918, 919, 972, 973, 974, 975, 976, 1026, 1027 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that future submissions, made by any party, that contain subject matter that the court has authorized to be sealed by this Order may 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.

This constitutes the Decision and Order of the Court.

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JOEL M. COHEN, J.S.C.

7/13/2022

DATE

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE