

Sire Champagnes, LLC v CCVUSA LLC
2022 NY Slip Op 33976(U)
November 18, 2022
Supreme Court, New York County
Docket Number: Index No. 653052/2022
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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SIRE CHAMPAGNES, LLC,

Petitioner,

- v -

CCVUSA LLC, MATTHEW MCMANN

Respondents.

INDEX NO. 653052/2022

MOTION DATE 09/30/2022

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1, 2, 5, 7, 19, 23, 24, 25, 26, 27, 28, 29, 30, 33, 35, 38, 40

were read on this motion to SEAL.

Petitioner Sire Champagnes, LLC (“Petitioner”) seeks an Order (1) to unseal and make public certain documents that were filed in sealed or redacted form at the initiation of this Article 75 special proceeding (NYSCEF 1, 7, 19, 26, 27, 28, 29), and (2) to maintain under seal and/or in redacted form two documents containing Sire Champagnes’ proprietary financial information (NYSCEF 2, 5). Respondents CCVUSA, LLC (“CCV”) and Matthew McMann oppose this motion (NYSCEF 38). For the following reasons, Petitioner’s motion is denied.

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]).

As an initial matter, Respondents are incorrect in suggesting that Petitioner needs to show good cause to *unseal* or *un-redact* documents. The burden always remains with the party seeking to seal or redact Court documents. The fact that the parties have stipulated to sealing documents, or that they have designated the documents during discovery as “Confidential” or “Highly Confidential,” does not, by itself, require granting of the motion (*see, e.g., Maxim*, 145 AD3d at 518; *Gryphon*, 28 AD3d at 324). Further, agreements to seal do not, without more, establish “good cause” (*MBIA Ins. Corp. v Countrywide Home Loans, Inc.*, 2012 NY Slip Op 33147[U], * 9 [Sup Ct, NY County 2012]).

Here, however, Respondent has met its burden of showing good cause. New York has a “long and strong public policy favoring arbitration” (*Am. Intl. Specialty Lines Ins. Co. v Allied Capital Corp.*, 35 NY3d 64, 70 [2020]), and New York courts have authorized sealing the records of Article 75 proceedings where the matter properly belonged in arbitration, and thus “the material filed with the court belongs not in the court, but in the files of the arbitrating body” (*Matter of Cohen v S.A.C. CapitalAdvisors, LLC*, 11 Misc 3d 1054(A) [Sup Ct, NY County

2006], quoting *Feffer v Goodkind, Wechsler, Labaton & Rudolf*, 152 Misc 2d 812, 815 [Sup Ct, NY County 1991], *affd sub nom.*, 183 AD2d 678 [1st Dept 1992]). While there is not “a per se sealing rule for records submitted to the court in connection with arbitration proceedings” where, “as is common among parties to arbitration, the parties had a strong expectation of confidentiality even in court proceedings to confirm the award,” redaction may be appropriate (*Allstate Life Ins. Co. v Lincoln Ben. Life Co.*, 2020 WL 3819037 [Sup Ct, NY County 2020]). Here, Respondents argue that the documents at issue were designated confidential in the underlying arbitration and the documents feature testimony from witnesses who testified candidly under oath and with the expectation that their testimony would be confidential. Moreover, all but one of the documents have been redacted to isolate confidential information, rather than sealed in their entirety, which further supports Respondent’s position.

Therefore, the Court finds good cause to permit redaction of the Petition (filed in redacted form at NYSCEF 1, and unredacted at NYSCEF 26), the Memorandum of Law (filed in redacted form at NYSCEF 19, and unredacted at NYSCEF 27), , the Award (filed in redacted form at NYSCEF 2, and unredacted at NYSCEF 28), and the Statement of Claim (filed in redacted form at NYSCEF 5, and unredacted at NYSCEF 29), as well as sealing the single-page December 28, 2016 email (NYSCEF 7).

Accordingly, it is:

ORDERED that Petitioner’s Motion to unseal and make public certain documents is **denied**; it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 1, 2, 5, and 19 in their current, redacted form; it is further

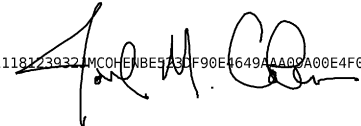
ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 7, 19, 26, 27, 28, and 29 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

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.

This constitutes the Decision and Order of the Court.

11/18/2022
DATE

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JOEL M. COHEN, J.S.C.

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER
 REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: