

Natixis, N.Y. Branch v 20 TSQ Lessee LLC
2023 NY Slip Op 30355(U)
January 31, 2023
Supreme Court, New York County
Docket Number: Index No. 850272/2019
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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NATIXIS, NEW YORK BRANCH, CATHAY LIFE
INSURANCE CO., LTD., NONGHYUP BANK,
NONGHYUP BANK NEW YORK BRANCH, NONGHYUP
BANK, NONGHYUP BANK, KEB HANA BANK NEW
YORK AGENCY, HAREL - 20 TIMES SQUARE -
GENERAL PARTNERSHIP, CHANG HWA COMMERCIAL
BANK, LTD., LOS ANGELES BRANCH, CHINA
MERCHANTS BANK CO., LTD., NEW YORK BRANCH,
VIOLET PROTECTED ASSET SPC,

Plaintiffs,

- v -

20 TSQ LESSEE LLC, 20 TSQ SIGN LLC, MARK SIFFEN,
NAVILLUS TILE, INC., FACADE TECHNOLOGY,
LLC, SERVICE GLASS & STORE FRONT CO.,
INC., SIGNATURE METAL & MARBLE MAINTENANCE,
L.L.C., HARDER SERVICES, INC., METAL SALES CO.,
INC., FACADE MAINTENANCE SYSTEMS LLC, TEXAS
SCENIC COMPANY, INC., PENGUIN MAINTENANCE
AND SERVICES, INC., SOLAR ELECTRICAL SYSTEMS,
INC., AF SUPPLY CORPORATION, SAFWAY ATLANTIC,
LLC, TREX COMMERCIAL PRODUCTS, INC., B.A.C.C.
BUILDERS INC., 20 TSQ GROUND CO LLC, CNY
CONSTRUCTION 701 LLC, ZURICH AMERICAN
INSURANCE COMPANY, FIDELITY AND DEPOSIT
COMPANY OF MARYLAND, MAEFIELD DEVELOPMENT
INC., R & S UNITED SERVICES, INC. S/H/A JOHN DOE,
OTIS ELEVATOR COMPANY, MAEFIELD
DEVELOPMENT CORP., CNY BUILDERS LLC, G-CNY
GROUP LLC, CNY GROUP LLC, CNY CONSTRUCTION
LLC, KENNETH COLAO, STEVEN COLAO, DENNIS
PRUDE,

Defendants.

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 017) 805, 806, 807, 808,
809

were read on this motion to

SEAL/REDACT

Defendants 20 TSQ Lessee LLC, 20 TSQ Sign LLC, and Mark Siffin (the “TSQ
Defendants”) move unopposed for an order sealing and/or redacting Plaintiffs’ Reply

Memorandum of Law in Support of their Motion for a Deficiency Judgment (the “Reply Memorandum”) (NYSCEF 804) and the Affirmation of Steven Sinatra in Support of that motion (the “Affirmation”) (NYSCEF 798). For the following reasons, the TSQ Defendants’ 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 proposed redactions in the Reply Memorandum and the Affirmation 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, non-public financial information concerning a confidential contract or agreement with a non-party to this

instant 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 TSQ Defendants’ motion to seal/redact is **granted**; it is further

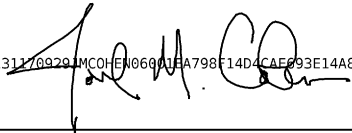
ORDERED that the Clerk shall maintain the documents filed as NYSCEF Document Numbers 798 and 804 in their current, redacted form; it is further

ORDERED that Plaintiffs file unredacted versions of the Reply Memorandum and the Affirmation under seal. Upon filing, the Clerk shall maintain the unredacted versions under seal so that they may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that as it relates 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 redaction 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.

1/31/2023
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