

**CA Organizasyon Matbaacilik Turizm Reklam Gida  
Tic. Ltd. Sti. v JP Morgan Chase Bank, N.A.**

2023 NY Slip Op 31574(U)

May 10, 2023

Supreme Court, New York County

Docket Number: Index No. 152874/2023

Judge: Shahabuddeen Abid Ally

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. SHAHABUDDEN ABID ALLY PART 16TR**

*Justice*

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INDEX NO. 152874/2023

CA ORGANIZASYON MATBAACILIK TURIZM REKLAM  
GIDA TIC. LTD. STI., A/K/A CA FOOD TRADE LIMITED

MOTION DATE 03/29/2023

Petitioner,

MOTION SEQ. NO. 001

- v -

JP MORGAN CHASE BANK, N.A.,

**DECISION + ORDER ON  
MOTION**

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 6

were read on this motion to/for

DISCOVERY - PRE-ACTION

Petitioner brings this special proceeding seeking an order for pre-action disclosure pursuant to CPLR § 3102(c). The petition, having been served upon respondent on March 30, 2023, is unopposed. Upon the above cited papers, the petition is granted.

By Verified Petition, petitioner avers that it is a food manufacturing and distribution company organized under the laws of the country of Turkey (petition at par 2). Beginning on or about June 2022, petitioner entered into an arrangement with an individual identifying himself as “Abdurrahman Altingdag” (“AA”), who represented that he had the authority to act on behalf of Bunge Limited, a large agribusiness and food company (petition at par 4). Based on that representation, petitioner contracted to obtain large quantities of sugar from AA and funded the sum of \$335,000.00 by wire to an account purportedly held by “Bunge US LTD” (petition at par 5). After petitioner failed to receive the sugar, petitioner contacted Bunge Limited, who informed

petitioner that AA had no affiliation with the company and that the arrangement had been a fraud (petition at par 6).

Petitioner now seeks an order granting pre-action disclosure of the name(s) and other information related to the account that it funded. Petitioner also seeks related account documents such as account formation documents, signature cards, and any proof of identity provided to respondent when the account was opened, as well as bank statements and transaction history for the period of January 2022 to present in order to confirm that the account holder received the funds. Petitioner contends that absent disclosure, petitioner is unable to commence an action to recover the monies paid because it does not have sufficient information about the persons or entities that received the funds. In further support of its application, petitioner has provided a record of sums paid to the relevant account by petitioner (ex A).

CPLR § 3102(c) provides that a party may seek pre-action disclosure by court order “to aid in bringing an action, to preserve information or to aid in arbitration.” A party may also seek such disclosure to aid in “identifying prospective defendants” (*Matter of Sims v Metropolitan Transp Auth*, 123 AD3d 496, 496 [1st Dept 2014]); however, the device may not be used to ascertain *whether* a prospective plaintiff has a cause of action (*Matter of Gleich v Kissinger*, 111 AD2d 130, 131-132 [1985]). “A petition for pre-action discovery should only be granted when the petitioner demonstrates that he has a meritorious cause of action and that the information sought is material and necessary to the actionable wrong” (*Holzman v Manhattan & Bronx Surface Tr Operating Auth*, 271 AD2d 346, 347 [2000]).

The Court finds that petitioner has made a sufficient showing that it has a viable cause of action for, *inter alia*, unjust enrichment, fraud, and conversion, and that disclosure of the

requested materials is necessary to aid in identifying prospective defendants. As such, pre-action disclosure of the materials requested is warranted pursuant to CPLR § 3102(c).

Based on the foregoing, it is hereby:

**ADJUDGED** that the petition is granted; and it is further

**ORDERED** that petitioner shall serve a copy of this order upon respondent with notice of entry by Federal Express overnight or similar overnight delivery service to the address denominated by respondent for that purpose and via NYSCEF within thirty days of entry; and it is further

**ORDERED** that within thirty days of service of this order, respondent shall provide to petitioner's counsel the name(s) and address(es), including email address(es), of the account holder(s) identified on Exhibit A of the Verified Petition; and it is further

**ORDERED** that within thirty days of service of this order, respondent shall provide to petitioner's counsel copies of the relevant bank account formation documents, signature cards, and any proof of identity provided to respondent when the account was opened, as identified in Exhibit A of the Verified Petition; and it is further

**ORDERED** that within thirty days of service of this order, respondent shall provide to petitioner's counsel copies of all relevant bank account statements for the period of January 2022 to the date of this order, including all Wire, ACH debit or credit transactions posted or attempted to be posted to the relevant customer accounts and to identify each individual and/or entity that may have received and/or sent any money from the relevant customer account, as identified in Exhibit A of the Verified Petition.

This constitutes the decision and order of the Court.

5/10/2023

DATE

SHAHABUDDIN ABID ALLY, A.J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE