

**Success Academy Charter Schs., Inc. v Liberty Sq.
Realty Corp.**

2024 NY Slip Op 32622(U)

July 12, 2024

Supreme Court, New York County

Docket Number: Index No. 654728/2018

Judge: Andrea Masley

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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SUCCESS ACADEMY CHARTER SCHOOLS, INC.,	INDEX NO.	<u>654728/2018</u>
Plaintiff,	MOTION DATE	_____
- v -	MOTION SEQ. NO.	<u>013</u>
LIBERTY SQUARE REALTY CORP., HENRY WEINSTEIN, and BENJAMIN KLEIN,	DECISION + ORDER ON MOTION	
Defendants.		

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 013) 362, 363, 364, 365, 366, 367, 369

were read on this motion to/for _____ SEAL _____.

Upon the foregoing documents, it is

In mot. seq. no. 013, plaintiff Success Academy Charter Schools, Inc. moves, by order to show cause, pursuant to Section 216.1 of the Uniform Rules for the New York State Trial Courts, to seal NYSCEF 338, 346 and 350, and redact NYSCEF 341, 344, 349, 353 and 355. The motion is unopposed. There is no indication that the press or public have an interest in this action.

Discussion

Legal Standard

Section 216.1(a) of the Uniform Rules for Trial Courts empowers courts to seal documents upon a written finding of good cause. It provides:

“(a) [e]xcept where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except 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 the parties. Where it appears

necessary or desirable, the court may prescribe appropriate notice and an opportunity to be heard.”

“Under New York law, 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] [citations omitted].) The “party seeking to seal court records bears the burden of demonstrating compelling circumstances to justify restricting public access” to the documents. (*Mosallem v Berenson*, 76 AD3d 345, 348-349 [1st Dept 2010] [citations omitted].) The movant must demonstrate good cause to seal records under Rule § 216.1 by submitting “an affidavit from a person with knowledge explaining why the file or certain documents should be sealed.” (*Grande Prairie Energy LLC v Alstom Power, Inc.*, 2004 NY Slip Op 51156 [U], *2 [Sup Ct, NY County 2004].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Labs.*, 274 AD2d at 8.)

Courts have sealed records where trade secrets are involved or where the disclosure of documents “could threaten a business’s competitive advantage.” (*Mosallem*, 76 AD3d at 350-351 [citations omitted].) Additionally, the First Department has affirmed the sealing of records concerning financial information where there has not been a showing of relevant public interest in disclosure of the financing. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].)

Plaintiff seeks to seal NYSCEF 338, 346 and 350, and redact NYSCEF 341, 344, 349, 353 and 355.

NYSCEF 338 is a copy of Exhibit 5 to the Affirmation of Laura F. Corbin filed by Success Academy in support of its Renewed Motion for Partial Summary Judgment,

which consists of defendant Liberty Square Realty Corp.'s (Liberty) bank records for its account ending 0182, dated April 29, 2017 through January 31, 2018.

NYSCEF 346 is a copy of Exhibit 11 to the Affirmation of Laura F. Corbin filed by Success Academy in support of its Renewed Motion for Partial Summary Judgment, which consists of Liberty's bank records for its account ending 6151, dated May 3, 2017 through January 31, 2018.

NYSCEF 350 is a copy of the Supplemental Expert Report of Eric Madsen, C.P.A., dated May 26, 2021, filed by Success Academy in support of its Renewed Motion for Partial Summary Judgment, which contains detailed discussion and analysis of Liberty's bank records for its account ending 6151.

This court in its decision dated September 24, 2021 on mot. seq. no. 005 held that there exists good cause to seal defendant's bank records and permitted the plaintiff to file Liberty's checking account bank records, showing all transactions involving Liberty's checking account for a period of nine months (previously filed under seal at NYSCEF 74.) (NYSCEF 210, Decision & Order dated September 24, 2021 [mot. seq. no. 005] at 4.) NYSCEF 338 is the same document as NYSCEF 74, and thus, plaintiff is permitted to file NYSCEF 338 under seal.

Courts have affirmed the sealing of records concerning financial information where there has not been a showing of relevant public interest in disclosure of the financing. (*Dawson*, 184 AD2d at 247.) The court finds good cause to seal the bank accounts of defendant Liberty and the Supplemental Expert Report of Eric Madsen which contains a detailed discussion and analysis of Liberty's bank records. There is no public interest in the disclosure of Liberty's private bank accounts. Further, this court

has already observed that there exists good cause to seal defendant Liberty's bank records and court finds good cause to seal NYSCEF 346 and 350.

Plaintiff seeks to redact NYSCEF 341, 344, 349, 353 and 355 to the extent they contain information about (i) Liberty and Liberty's contractors' financial information; (ii) terms of the lease agreement between Success and Liberty, with the lease agreement being subject to a confidentiality provision and a prior sealing order (NYSCEF 19, Decision & Order dated December 5, 2019 [mot. seq. no. 001]) in this action. (NYSCEF 366, Plaintiff's MOL [mot. seq. no. 013] at 4.)

NYSCEF 341 is a copy of Exhibit 7 to the Affirmation of Laura F. Corbin filed by Success Academy in support of its Renewed Motion for Partial Summary Judgment, which contains references to bank account information for one of Liberty's contractors. A redacted version of the document has been filed as NYSCEF 340.

NYSCEF 344 is copy of Exhibit 9 to the Affirmation of Laura F. Corbin filed by Success Academy in support of its Renewed Motion for Partial Summary Judgment, which contains references to confidential Lease terms. A redacted version of the document has been filed as NYSCEF 343.

NYSCEF 349 is a copy of the Expert Report of Eric Madsen, C.P.A., dated April 1, 2021, filed by Success Academy in support of its Motion for Renewed Partial Summary Judgment, which contains detailed discussion and analysis of Liberty's bank records for its account ending 0182. A redacted version of the document has been filed as NYSCEF 348.

NYSCEF 353 is a copy of Success Academy's Memorandum of Law in Support of its Renewed Motion for Partial Summary Judgment, dated February 7, 2024. A redacted version of the document has been filed as NYSCEF 352.

NYSCEF 355 is a copy of Success Academy's Rule 19-A statement, dated February 7, 2024. A redacted version of the document has been filed as NYSCEF 354.

The plaintiff has previously filed NYSCEF 341, 344, 349, 353 and 355 as NYSCEF 77, 80, 84, 86 and 88 in support of its initial motion for partial summary judgment made in April 2021. (NYSCEF 366, Plaintiff's MOL [mot. seq. no. 013] at 4-5.) The court in its decision dated September 24, 2021 on mot. seq. no. 005 permitted the plaintiff to redact NYSCEF 77, 80, 84, 86 and 88. (NYSCEF 210, Decision & Order dated September 24, 2021 [mot. seq. no. 005] at 4.) In this motion, plaintiff proposes the same redactions to NYSCEF 341, 344, 349, 353 and 355 as it did in mot. seq. no. 005. As the court has already found that the plaintiff has established good cause to redact these documents, plaintiff's motion to redact NYSCEF 341, 344, 349, 353 and 355 is granted.

Accordingly, it is

ORDERED that plaintiff's motion to seal NYSCEF 338, 346 and 350, and redact NYSCEF 341, 344, 349, 353 and 355 is granted, and the County Clerk is directed to seal these documents; Movant shall file publicly redacted versions of NYSCEF 341, 344, 349, 353 and 355 if it has not done so already; and it is further

ORDERED the County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in this action, and any representative of a party or of counsel of record

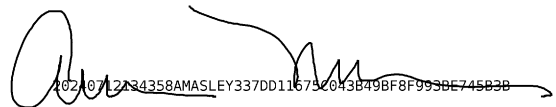
upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that counsel for the movants shall serve a copy of this order upon the Clerk of the Court; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk’s Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that if any party seeks to redact identical information in future filings that the court is permitting to be redacted here, that party shall submit a proposed sealing order to the court (via SFC-Part48@nycourts.gov and NYSCEF) instead of filing another seal motion; and it is further

ORDERED that this order does not authorize sealing or redacting for purposes of trial.



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7/12/2024

DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART OTHER
SUBMIT ORDER
FIDUCIARY APPOINTMENT REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: