

**State of N.Y. ex rel. Edelweiss Fund, LLC v
JPMorgan Chase & Co.**

2024 NY Slip Op 32964(U)

August 23, 2024

Supreme Court, New York County

Docket Number: Index No. 100559/2014

Judge: Andrew Borrok

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 53

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STATE OF NEW YORK EX REL. EDELWEISS FUND,
LLC,

Plaintiff,

- v -

JPMORGAN CHASE & CO., CITIGROUP, INC.,M&T
BANK CORPORATION, WELLS FARGO & COMPANY,
MERRILL LYNCH & CO., INC.,MORGAN STANLEY
SMITH BARNEY LLC,JPMORGAN CHASE BANK, N.A.,
J.P. MORGAN SECURITIES LLC,J.P. MORGAN
SECURITIES, INC.,CITIBANK, N.A, CITIGROUP GLOBAL
MARKETS, INC.,CITIGROUP FINANCIAL PRODUCTS,
INC.,CITIGROUP GLOBAL MARKETS HOLDINGS,
INC.,M&T BANK, BANK OF AMERICA CORPORATION,
BANK OF AMERICA N.A., BANC OF AMERICA
SECURITIES LLC,MERRILL LYNCH, PIERCE, FENNER &
SMITH INC.,BOFA MERRILL LYNCH ASSET HOLDINGS,
INC.,MORGAN STANLEY, MORGAN STANLEY & CO.
LLC,MORGAN STANLEY BANK, N.A., MORGAN
STANLEY CAPITAL SERVICES INC.,MORGAN STANLEY
CAPITAL GROUP INC.,

Defendant.

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INDEX NO.	<u>100559/2014</u>
	07/03/2024, 07/03/2024, 07/03/2024, 07/03/2024, 07/03/2024, 07/03/2024,
MOTION DATE	<u>07/09/2024</u>
	093 094 095 097 098 099
MOTION SEQ. NO.	<u>101</u>

**AMENDED AND
RESTRATED DECISION +
ORDER ON MOTION**

HON. ANDREW BORROK:

The following e-filed documents, listed by NYSCEF document number (Motion 093) 1702, 1703, 2292, 2340, 2341, 2342, 2343, 2344, 2429, 2448

were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 094) 1726, 1727, 2290, 2426, 2449

were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 095) 1877, 1878, 2291, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2450

were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 097) 2158, 2159, 2288, 2307, 2430, 2451

were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 098) 2163, 2164, 2296, 2308, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2428, 2452

were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 099) 2251, 2252, 2293, 2310, 2453

were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 101) 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2295, 2299, 2300, 2301, 2427, 2454

were read on this motion to/for SEAL

The court’s decision and order dated August 20, 2024 (the **Prior Decision:** NYSCEF Doc. Nos. 2448, 2449, 2450, 2451, 2452, 2453, and 2454) is hereby deleted and replaced in its entirety by this decision and order.

Upon the foregoing documents and for the reasons set forth on the record (*tr.* 8.19.24), in large part, certain of the parties seek to redact certain account numbers, routing numbers, and proprietary business information set forth in certain documents and deposition testimony.

As discussed, these types of redactions are in fact appropriate because the information sought to be sealed contains “sensitive proprietary and business information, which the parties have an interest in protecting and there is no countervailing public interest that would be furthered by their disclosure.” *Matter of Cohen v S.A.C. Capital Advisors, LLC*, 11 Misc 3d 1054(A) [Sup Ct 2006].

To the extent however that the parties seek to redact certain other information, including information about pricing or screen shots of inventory, redaction is not appropriate as the public interest in this information far outweighs any privacy concerns that the defendants have.

Accordingly,

1. Mtn. Seq. Nos. 94 & 99 are granted for good cause shown pursuant to Part 216 of the Uniform Rules for the Trial Courts solely to the extent that NYSCEF Doc. Nos. 1704-1707, 1709-1725, 2169, 2171, 2173, 2179, 2185, 2187, 2188, 2191-2196, 2202, 2206, 2207, 2243 shall be permanently sealed, pending the uploading of the approved proposed redactions no later than September 3, 2024;
2. Mtn. Seq. Nos. 95 & 101 are granted for good cause shown pursuant to Part 216 of the Uniform Rules for the Trial Courts solely to the extent that NYSCEF Doc. Nos. 1805, 1824, 1825, 1885, 1898, 1935-1940 shall be permanently sealed, pending the upload of the approved proposed redactions no later than September 3, 2024;
3. Mtn. Seq. No. 98 is granted for good cause shown pursuant to Part 216 of the Uniform Rules for the Trial Courts to the extent that NYSCEF Doc. Nos. 2040, 2041, 2044, 2045, 2052, 2057, 2058 shall be sealed permanently, pending the upload of the approved proposed redactions no later than September 3, 2024;
4. Mtn. Seq. No. 93 is granted for good cause shown pursuant to Part 216 of the Uniform Rules for the Trial Courts to the extent that NYSCEF Doc. No. 1695 shall be sealed permanently, pending the upload of the approved proposed redactions no later than September 3, 2024;
5. Mtn. Seq. No. 97 to seal certain documents (NYSCEF Doc. Nos. 2062, 2063-2077, 2080-2157) is withdrawn.
6. For the avoidance of doubt, the Prior Decision also indicated that documents 1708, 1797-1800, 1804, 1807, 1905, 1921-1926, 2166, 2168, 2170, 2172, 2174-2178, 2180-2184, 2186, 2189, 2190, 2197-2201, 2203-2205, 2208-2242, and 2244-2250 should also be permanently sealed. This was a transcription error. These documents should not be sealed.

Accordingly, it is hereby

ORDERED that the Clerk of the Court is directed, upon service on him of a copy of this interim order with notice of entry, to seal NYSCEF Doc. Nos. 1695, 1704-1707, 1709-1725, 1805, 1824,

1825, 1885, 1898, 1935-1940, 2040, 2041, 2044, 2045, 2052, 2057, 2058, 2169, 2171, 2173,

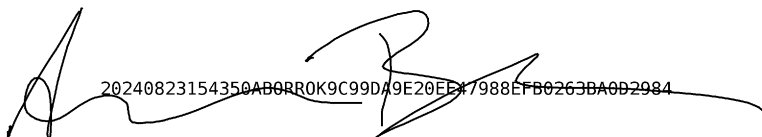
2179, 2185, 2187, 2188, 2191-2196, 2202, 2206, 2207, 2243, and to separate these documents and to keep them separate from the balance of the file in this action; and it is further

ORDRED that the parties shall upload redactions by September 3, 2024; and it is further

ORDERED that thereafter, or until further order of the Court, the Clerk of the Court shall deny access to the said sealed documents to anyone (other than the staff of the Clerk or the court) except for counsel of record for any party to this case and any party; and it is further

ORDERED that service upon the Clerk of the Court 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).

ORDRED that documents sealed (NYSCEF Doc. Nos. 1708, 1797-1800, 1804, 1807, 1905, 1921-1926, 2166, 2168, 2170, 2172, 2174-2178, 2180-2184, 2186, 2189, 2190, 2197-2201, 2203-2205, 2208-2242, 2244-2250) in the Prior Decisions shall be unsealed.



20240823154350ABORROK9C99DA9E20EE47988EFB0263BA0D2984

8/23/2024

DATE

ANDREW BORROK, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: