

**Brigade Cavalry Fund Ltd. v Chirico**

2025 NY Slip Op 30651(U)

February 24, 2025

Supreme Court, New York County

Docket Number: Index No. 655678/2024

Judge: Melissa A. Crane

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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. MELISSA A. CRANE PART 60M

Justice

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INDEX NO. 655678/2024

MOTION DATE 01/17/2025

MOTION SEQ. NO. 004

BRIGADE CAVALRY FUND LTD., BRIGADE COLLECTIVE INVESTMENT TRUST - BRIGADE DIVERSIFIED CREDIT CIT, BRIGADE CREDIT FUND II LTD., BRIGADE HIGH YIELD FUND LTD., BRIGADE LEVERAGED CAPITAL STRUCTURES FUND LTD., BRIGADE LOAN FUND LTD., BRIGADE OPPORTUNISTIC CREDIT LBG FUND LTD., BRIGADE-SIERRABRAVO FUND LP, FEDEX CORPORATION EMPLOYEES' PENSION TRUST, LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION, PANTHER BCM LLC, PLATINUM PEREGRINE A 2012 RSC LIMITED, SAS TRUSTEE CORPORATION, SC CREDIT OPPORTUNITIES MANDATE, LLC, SEI GLOBAL MASTER FUND PLC THE SEI HIGH YIELD FIXED INCOME FUND, SEI INSTITUTIONAL INVESTMENTS TRUST - HIGH YIELD BOND FUND, SEI INSTITUTIONAL MANAGED TRUST - HIGH YIELD BOND FUND, SEI INSTITUTIONAL MANAGED TRUST - MULTI-STRATEGY ALTERNATIVE FUND, TCORPIM HIGH YIELD FUND, THE COCA-COLA COMPANY MASTER RETIREMENT TRUST, U.S. HIGH YIELD BOND FUND

DECISION + ORDER ON MOTION

Plaintiff,

- v -

JAMES M. CHIRICO, KIERAN J. MCGRATH,

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 72, 73, 74, 75, 76, 77

were read on this motion to/for SEAL

Upon the foregoing documents, it is

In Motion Sequence No. 04, Defendant—Kieran J. McGrath—moved for EDOC. Nos. 11-14, 65, 67, and 69 to remain under seal; and for the redacted versions of EDOC. Nos. 64, 66, 68, and 70, to remain on the Court’s public docket. Defendant’s motion is unopposed and is granted for the reasons that follow.

Pursuant to § 216.1 (a) of the Uniform Rules for Trial Courts, this Court may seal or redact a filing “upon a written finding of good cause, which shall specify the grounds thereof.” “[T]he court shall consider the interests of the interests of the public as well as of the parties” in determining whether there is good cause (22 NYCRR § 216 [a]). The Court must also balance the risk of privacy concerns stemming from public access to the information against the “compelling public interest in exposure of this information,” if any (see *MBIA Ins. Corp. v Countrywide Home Loans, Inc.*, 2013 WL 450030, \*9 (Sup Ct, NY County Jan. 3, 2013).

The moving party has the burden to set forth compelling circumstances to justify restricting public access and must demonstrate “a sound basis or legitimate need to take judicial action” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter*, 274 AD2d 1, 6 [1st Dept 2000]). “[T]here is a broad presumption that the public is entitled to access to . . . court records” (*Mosallem v Berenson*, 76 AD3d 345, 348-350 [1st Dept 2010]). Further, Courts recognize that third-party customers have an interest in protecting their “names” and “financial information.” *Acrisure, LLC v. Woodruff-Sawyer & Co.*, 2024 WL 4470947, at \*1-2 (Sup. Ct. N.Y. Cnty. Oct. 9, 2024).

The “personal information” of nonparty persons are likewise sensitive. *Natixis Real Est. Cap. Tr. 2007-HE2 v. Natixis Real Est. Cap., Inc.*, 77 Misc. 3d 1224(A) (Sup. Ct. N.Y. Cnty. 2023) (Table), 2023 WL 177463, at \*2. Where “disclosure could impinge on the privacy rights of third parties who clearly are not litigants,” courts acknowledge that there is a “compelling interest” to seal. *Mancheski v. Gabelli Grp. Cap. Partners*, 39 A.D.3d 499, 502 (2d Dep’t 2007).

Here, Movant has established good cause to seal Exhibit Nos. 11-14, 65, 67, and 69, and for the redacted versions of EDOC. Nos. 64, 66, 68, and 70, to remain on the Court’s public

docket—having established that these documents contain non-public non-party names and contact information. That is, this information contains the personal information of Avaya’s employees and the disclosure thereof could impinge on the privacy rights of those employees who clearly are not litigants. Furthermore, there is no legitimate public interest in the disclosure this information including the names of Avaya’s customers, or the names and contact information of Avaya’s employees. Therefore, Defendant’s unopposed motion, Motion Sequence No. 04, is granted.

Accordingly, it is

**ORDERED** that Defendant’s motion to seal is granted; and it is further **ORDERED** that upon service of a copy of this Order upon the Clerk of the Court, the Clerk shall permit the NYSCEF Docs. 11-14, 65, 67, and 69 to be and remain filed in sealed form wherever they shall appear in connection with this action. Until further Order of the Court, the Clerk of the Court shall deny access to those unredacted documents to anyone other than the Clerk’s staff, authorized court personnel, counsel of record for any party to this case, and any party, provided that the clerk of the Court shall not seal or redact any documents not referenced in this Order, or otherwise as described below, or as set forth in another Order of this Court; 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; and it is further

**ORDERED** that such service upon the County Clerk 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 –  
www.nycourts.gov/supctmanh).

02/24/2025

DATE



MELISSA A. CRANE, J.S.C.

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