

CPPIB Credit Inv. II Inc. v Lions Gate Entertainment Corp.

2025 NY Slip Op 30966(U)

March 20, 2025

Supreme Court, New York County

Docket Number: Index No. 654398/2024

Judge: Joel M. Cohen

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

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 03M

-----X

CPPIB CREDIT INVESTMENTS II INC., CPPIB CREDIT
INVESTMENTS III INC., THEBES OFFSHORE MASTER
FUND, LP,

Plaintiffs,

- v -

LIONS GATE ENTERTAINMENT CORPORATION, LIONS
GATE CAPITAL HOLDINGS LLC,DEUTSCHE BANK
TRUST COMPANY AMERICAS, EAGLE EQUITY
PARTNERS V, LLC,JOHN DOE, AIC INVESTMENT
HOLDINGS LLC - SERIES II, AMERIGROUP MARYLAND,
INC.,BALDR BAYES FUND INC.,BGF GLOBAL HIGH
YIELD BOND FUND, BLACKROCK CAPITAL
ALLOCATION TERM TRUST, BLACKROCK CORE BOND
TRUST, BLACKROCK CORPORATE HIGH YIELD FUND,
INC.,BLACKROCK CREDIT ALLOCATION INCOME
TRUST, BLACKROCK CREDIT STRATEGIES FUND,
BLACKROCK DEBT STRATEGIES FUND,
INC.,BLACKROCK DYNAMIC HIGH INCOME
PORTFOLIO OF BLACKROCK FUNDS II, BLACKROCK
ESG CAPITAL ALLOCATION TERM TRUST,
BLACKROCK EVENT DRIVEN EQUITY FUND OF
BLACKROCK LARGE CAP SERIES FUNDS,
INC.,BLACKROCK GLOBAL ALLOCATION FUND,
INC.,BLACKROCK GLOBAL ALLOCATION PORTFOLIO
OF BLACKROCK SERIES FUND, INC.,BLACKROCK
GLOBAL ALLOCATION V.I. FUND OF BLACKROCK
VARIABLE SERIES FUNDS, INC.,BLACKROCK GLOBAL
EVENT PARTNERS MASTER LTD, BLACKROCK
GLOBAL FUNDS - DYNAMIC HIGH INCOME FUND,
BLACKROCK GLOBAL FUNDS - ESG GLOBAL
CONSERVATIVE INCOME FUND, BLACKROCK GLOBAL
FUNDS - FIXED INCOME GLOBAL OPPORTUNITIES
FUND, BLACKROCK GLOBAL FUNDS - GLOBAL MULTI-
ASSET INCOME FUND, BLACKROCK GLOBAL FUNDS -
SUSTAINABLE FIXED INCOME GLOBAL
OPPORTUNITIES FUND, BLACKROCK GLOBAL FUNDS
- US DOLLAR HIGH YIELD BOND FUND, BLACKROCK
GLOBAL FUNDS - US DOLLAR SHORT DURATION
BOND FUND, BLACKROCK GLOBAL FUNDS GLOBAL
ALLOCATION FUND, BLACKROCK GLOBAL FUNDS
SYSTEMATIC ESG MULTI ALLOCATION CREDIT FUND
HIGH YIELD, BLACKROCK GLOBAL FUNDS-ESG
GLOBAL MULTI-ASSET INCOME FUND, BLACKROCK
GLOBAL HIGH YIELD SUSTAINABLE CREDIT
SCREENED FUND, BLACKROCK GLOBAL
INVESTMENT SERIES - INCOME STRATEGIES

INDEX NO. 654398/2024
MOTION DATE 01/06/2025
MOTION SEQ. NO. 003

**DECISION + ORDER ON
MOTION**

PORTFOLIO, BLACKROCK GLOBAL LONG/SHORT CREDIT FUND OF BLACKROCK FUNDS IV, BLACKROCK HIGH YIELD BOND PORTFOLIO OF BLACKROCK FUNDS V, BLACKROCK HIGH YIELD PORTFOLIO OF BLACKROCK SERIES FUND II, INC.,BLACKROCK HIGH YIELD V.I. FUND OF BLACKROCK VARIABLE SERIES FUNDS II, INC.,BLACKROCK INCOME FUND OF BLACKROCK FUNDS V, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INVESTMENT MANAGEMENT (AUSTRALIA) LIMITED AS RESPONSIBLE ENTITY OF THE BLACKROCK GLOBAL ALLOCATION FUND (AUST), BLACKROCK LIMITED DURATION INCOME TRUST, BLACKROCK LOW DURATION BOND PORTFOLIO OF BLACKROCK FUNDS V, BLACKROCK MANAGED INCOME FUND OF BLACKROCK FUNDS II, BLACKROCK MULTI-ASSET INCOME PORTFOLIO OF BLACKROCK FUNDS II, BLACKROCK MULTI-SECTOR INCOME TRUST, BLACKROCK MULTI-STRATEGY CREDIT MASTER FUND LTD., BLACKROCK SPECIALIST STRATEGIES FUNDS - BLACKROCK MULTI-STRATEGY CREDIT FUND, BLACKROCK STRATEGIC FUNDS - BLACKROCK GLOBAL EVENT DRIVEN FUND, BLACKROCK STRATEGIC INCOME OPPORTUNITIES PORTFOLIO OF BLACKROCK FUNDS V, BLACKROCK SUSTAINABLE HIGH YIELD BOND FUND OF BLACKROCK FUNDS V, BLACKROCK SUSTAINABLE LOW DURATION BOND FUND OF BLACKROCK FUNDS V, BLACKROCK SYSTEMATIC MULTI ALLOCATION CREDIT FUND HIGH YIELD, BLACKROCK SYSTEMATIC MULTI-STRATEGY ALPHA MASTER FUND LTD., BLACKROCK SYSTEMATIC MULTI-STRATEGY FUND OF BLACKROCK FUNDS IV, BRIGHTHOUSE FUNDS TRUST I - BLACKROCK HIGH YIELD PORTFOLIO, CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM, CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM, CANADA FIXED INCOME GLOBAL OPPORTUNITIES FUND, CIVIL AVIATION AUTHORITY PENSION SCHEME, DANICA PENSION, LIVSFORSIKRINGSAKTIESELSKAB, EMBO-FONDS, EMPIRE HEALTH CHOICE ASSURANCE INC.,EMPLOYEES' RETIREMENT FUND OF THE CITY

OF DALLAS, ENHANCED PASSIVE GLOBAL HIGH YIELD BOND PORTFOLIO, ENTE NAZIONALE DI PREVIDENZA ED ASSISTENZA DEI MEDICI E DEGLI ODONTOIATRI, FONDITALIA - BOND GLOBAL HIGH YIELD FUND, GLOBAL ATLANTIC INVESTMENT ADVISORS LLC., IMCO GLOBAL CREDIT LP, ISHARES, ISHARES CORE 5-10 YEAR USD BOND ETF, ISHARES CORE TOTAL USD BOND MARKET ETF, ISHARES ESG ADVANCED HIGH YIELD CORPORATE BOND ETF, ISHARES ESG ADVANCED TOTAL USD BOND MARKET ETF, ISHARES I BONDS 2029 TERM HIGH YIELD AND INCOME ETF, ISHARES II PUBLIC LIMITED COMPANY, ISHARES ILL PLC, ISHARES U.S. FIXED INCOME BALANCED RISK FACTOR ETF, JNL/BLACKROCK GLOBAL ALLOCATION FUND, KAPITALFORENINGEN PENSAM, LVIP BLACKROCK GLOBAL ALLOCATION FUND, METROPOLITAN LIFE INSURANCE COMPANY, ON BEHALF OF ITS SEPARATE ACCOUNT NO. 479, MORNINGSTAR ALTERNATIVES FUND A SERIES OF MORNINGSTAR FUNDS TRUST, MULTI-MANAGER HIGH YIELD OPPORTUNITY FUND, NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION, PENSIONS KASSE STADT ZURICH, PPL SERVICES CORPORATION MASTER TRUST, RENAISSANCE INVESTMENT HOLDINGS LTD., SIX CIRCLES CREDIT OPPORTUNITIES FUND, SOMERS RE LTD., STICHTING BEDRIJFSTAKPENSIOENFONDS VOOR DE DETAILHANDEL, STICHTING DELA DEPOSITARY & MANAGEMENT, STICHTING PENSIOENFONDS MEDISCH SPECIALISTEN, STICHTING PENSIOENFONDS ZORG EN WELZIJN, SYSTEMATIC TOTAL ALPHA, THE NAVY EXCHANGE SERVICE COMMAND RETIREMENT TRUST, THE NEW ZEALAND GUARDIAN TRUST COMPANY LIMITED AS TRUSTEE FOR AMP WHOLESALE HIGH YIELD BOND FUND, TWO DEGREE LLC, UBS FUND MANAGEMENT (SWITZERLAND) AG ON BEHALF OF KYBURG INSTITUTIONAL FUND - OBLIGATIONEN FREMDWAHRUNGEN, US HIGH YIELD PASSIVE PORTFOLIO, VELLIV, PENSION & LIVSFORSIKRING A/S, DIAMETER CREDIT FUNDING I, LTD., DIAMETER CREDIT FUNDING II, LTD., DIAMETER CREDIT FUNDING III, LTD., DIAMETER CREDIT FUNDING LV, LTD., DIAMETER DISLOCATION MASTER FUND II LP, DIAMETER MASTER FUND LP, LIBERTY 77 FUND INTERNATIONAL L.P., LIBERTY 77 FUND L.P., ALLIANZ GLOBAL INVESTORS FUND, ALLIANZ GLOBAL INVESTORS INCOME AND GROWTH FUND, ALLIANZ INCOME AND GROWTH, ALLIANZ US HIGH YIELD, COMMISSIONERS OF THE LAND OFFICE, CONTRA COSTA COUNTY EMPLOYEES RETIREMENT ASSOCIATION, VIRTUS CONVERTIBLE & INCOME FUND, VIRTUS CONVERTIBLE & INCOME FUND II, VIRTUS DIVERSIFIED INCOME & CONVERTIBLE FUND,

VIRTUS INCOME & GROWTH FUND,

Defendants.

-----X

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 003) 95, 96, 97, 98, 99, 100, 101, 143, 144, 145

were read on this motion to

SEAL

Defendant Deutsche Bank Trust Company Americas (the “Trustee”) moves for an order sealing and/or redacting certain portions of NYSCEF 62, 64, 69, and 71 filed in connection with the Trustee’s Motion to Dismiss. No parties oppose this motion. For the following reasons, the Trustee’s motion is **granted in part**.

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]). Good cause must “rest on a sound basis or legitimate need to take judicial action” (*Danco Labs.*, 274 AD2d at 9). Agreements to seal are insufficient as such agreements do not establish “good cause” (*MBIA Ins. Corp. v Countrywide Home Loans, Inc.*, 2012 NY Slip Op 33147[U], * 9 [Sup Ct, NY County 2012]).

The Court has reviewed NYSCEF 71 (the “Opinion Letter”) and finds that there may be good cause for redactions to the extent the Opinion Letter reveals proprietary information, but any proprietary information can be protected through narrow and targeted redactions. Additionally, to the extent the Opinion Letter contains exhibits that are publicly filed elsewhere on the docket, those exhibits will not be sealed. The Trustee is directed to work with the objecting law firm to file a redacted version of the Opinion Letter consistent with the Court’s instructions herein. The Trustee’s request to redact the references to the Opinion Letter contained in NYSCEF 62, 64, and 69 (also filed at NYSCEF 98, 99, and 100, and 143, 144, and 145), is granted, as the proposed redactions are narrow and satisfy the requirements of 22 NYCRR § 216.1 (a).

Accordingly, it is:

ORDERED that the Trustee’s Motion to Seal and/or Redact is **GRANTED IN PART**; it is further

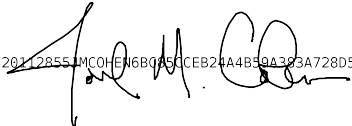
ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 62, 64, 69, 71, 98, 99, 100, 143, 144, and 145 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that the Trustee shall file public, redacted versions of NYSCEF 62, 64, and 69, and 71 within five (5) days of the date of this Order; it is further

ORDERED as it related 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 the Trustee shall serve a copy of this Order upon the Clerk’s office within five (5) days of the date of this Order, and such service 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)]; 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.

20250320122855JMC0HE16B085CEB2444B50A333A728D5362C95


JOEL M. COHEN, J.S.C.

3/20/2025

DATE

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER
REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: