

IKB Intl., S.A. v U.S. Bank, N.A.

2025 NY Slip Op 31930(U)

May 29, 2025

Supreme Court, New York County

Docket Number: Index No. 654442/2015

Judge: Anar Rathod Patel

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 45

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IKB INTERNATIONAL, S.A., IKB DEUTSCHE
INDUSTRIEBANK A.G.,

Plaintiffs,

- v -

U.S. BANK, N.A.,

Defendant.

INDEX NO. 654442/2015

MOTION DATE 05/16/2025

MOTION SEQ. NO. 021

DECISION + ORDER ON MOTION

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HON. ANAR RATHOD PATEL:

The following e-filed documents, listed by NYSCEF document number (Motion 021) 1293–1300 were read on this motion to SEAL.

Before this Court is an unopposed motion by Plaintiffs IKB International S.A. in Liquidation, and IKB Deutsche Industriebank AG (collectively “Plaintiffs”) (Mot. Seq. 021) to maintain certain documents in their sealed or redacted form on NYSCEF pursuant to 22 NYCRR § 216.1. The subject documents are filed in connection with pending motions for summary judgment filed by Plaintiffs and Defendant U.S. Bank, N.A. (“Defendant”) (Mot. Seq. Nos. 016, 017). For the reasons as set forth herein, Plaintiffs’ unopposed motion is GRANTED.

On September 30, 2020, the parties entered into a Stipulation and Order for the Production and Exchange of Confidential Information (“Confidentiality Order”) (NYSCEF Doc. No. 199), and on January 8, 2025, a So Ordered Second Stipulation and Order Governing Summary Judgment Motions (NYSCEF Doc. No. 1009). Pursuant to the Confidentiality Order, “Confidential Information” is defined as discovery material that contains information the producing party “reasonably and in good faith believes constitutes and/or contains (i) non-public, confidential, business, strategic, personal, proprietary or commercially-sensitive information; or (ii) Non-Party Borrower Information.” Confidentiality Order at § 3(a). While courts may consider stipulated protective orders when making decisions about sealing documents, such orders are not dispositive, nor do they relieve this Court of its obligation to determine whether the movant has established good cause pursuant to § 216.1(a).

Here, Plaintiffs move to seal or redact information in three categories of documents: (1) confidential documents from unrelated residential mortgage-backed securities (“RMBS”) actions; (2) financial and contact information of IKB AG and non-party KfW, a German state-owned bank; and (3) expert reports and associated exhibits containing proprietary methodologies and opinions.

Pursuant to § 216.1(a), the 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.” “There is a presumption that the public has the right of access to the courts to ensure the actual and perceived fairness of the judicial system.” *Mancheski v. Gabelli Grp. Cap. Partners*, 39 A.D.3d 499, 501 (2d Dept. 2007) (quoting *Republic of Philippines v. Westinghouse Elec. Corp.*, 949 F.2d 653 (3d Cir. 1991)). “The public right to access, however, is not absolute.” *Mosallem v. Berenson*, 76 A.D.3d 345, 349 (1st Dept. 2010). “Although the rule does not further define ‘good cause,’ a standard that is ‘difficult to define in absolute terms,’ a sealing order should rest on a ‘sound basis or legitimate need to take judicial action,’ a showing properly burdening the party seeking to have a sealed record remain sealed.” *Danco Lab’ys, Ltd. v. Chem. Works of Gedeon Richter, Ltd.*, 274 A.D.2d 1, 8 (1st Dept. 2000) (quoting *id.*). Ultimately, the “balancing of private and public interest in sealing [is within] the court’s discretion.” *PricewaterhouseCoopers, LLP v. Cahill*, 223 A.D.3d 543, 543 (1st Dept. 2024).

Courts have routinely held that good cause is established to warrant protection of third-party names and contact information. See *MBIA Ins. Corp. v. Countrywide Home Loans, Inc.*, No. 602825/08, 2013 WL 450030, at *3 (N.Y. Cnty. Sup. Ct. Jan. 3, 2013) (quoting *Mancheski*, 39 A.D.3d at 502) (“disclosure could impinge on the privacy rights of third parties who clearly are not litigants herein.”). This approach has extended to the private financial information of third parties. *Id.* at *4. Courts have further held that, in a business context, a negative impact as to a movant’s ability to conduct business or participate in negotiations is sufficient to warrant sealing. See, e.g., *Mosallem*, 76 A.D.3d at 350 (“we have allowed for sealing where trade secrets are involved, or where the release of documents could threaten a business’s competitive advantage.”) (internal citations omitted); *Mavel, a.s. v. Rye Dev., LLC*, 79 Misc. 3d 1231(A) (N.Y. Cnty. Sup. Ct. 2023); *People v. Leasing Expenses Co. LLC*, 73 Misc. 3d 1207(A) (N.Y. Cnty. Sup. Ct. 2021). The decision to seal documents can extend to business issues beyond financial considerations including documents relating to “transaction management, internal business strategy, . . . and operations.” *Catalyst Invs. III, L.P. v. The We Co.*, 2022 WL 1516276, *1 (N.Y. Cnty. Sup. Ct. May 13, 2022).

Here, Plaintiffs argue that good cause exists to seal or redact documents that contain confidential or proprietary business and financial information belonging to the Plaintiffs and/or non-parties that is not publicly available. Plaintiffs further argue that there is no demonstrated public or press interest in the information at issue. Plaintiffs seek redaction/sealing of documents in the following three protected categories:

1. Confidential documents from unrelated residential mortgage-backed securities actions containing proprietary information referencing underlying investment strategies, valuations, and settlement information. NYSCEF Doc. Nos. 687, 741, 830, 832, and 834. These documents contain information regarding prior confidential settlements where public disclosure could cause competitive harm to non-parties in this action. See *Mosallem*, 76 A.D.3d at 350.

Therefore, the Court finds that good cause exists to permanently seal documents filed at NYSCEF Doc. Nos. 687, 830, 832, and 834. The Court also permanently redacts NYSCEF Doc. No. 741.

2. Financial and contact information of IKB AG and non-party KfW, a German state-owned bank, containing, *inter alia*, financial account information, non-public KfW executive contact information, KfW fax numbers, and KfW telephone numbers. This information is private, confidential, and irrelevant to the claims asserted in this action. *See MBIA Ins. Corp.*, 2013 WL 450030, at *3–4.

Therefore, the Court finds that good cause exists to permanently redact the private, non-public information filed in NYSCEF Doc. Nos. 737 and 739.

3. Expert reports and associated exhibits detailing proprietary methodologies and opinions that contain confidential information as defined in the Confidentiality Order. NYSCEF Doc. Nos. 777, 816, 1045, 1047, and 1292. Plaintiffs argue that good cause exists to seal these documents because they contain confidential and/or proprietary business and financial information belonging to the Plaintiffs. Specifically, the expert opinions, and the contents of the documents that form those opinions, may prejudice Plaintiffs in a separate action before this Court that contain similar claims and issues.¹

Therefore, the Court finds that good cause exists to permanently seal documents filed at NYSCEF Doc. Nos. 777, 816, 1045, 1047, and 1292.

Accordingly, it is hereby

ORDERED that Plaintiff's Motion to Seal (Mot. Seq. 021) is GRANTED; and it is further

ORDERED that upon service of a copy of this Decision and Order on the Clerk of the Court, the Clerk shall permanently seal NYSCEF Doc. Nos. 687, 777, 816, 830, 832, 834, 1045, 1047, and 1292; and it is further

ORDERED that upon service of a copy of this Decision and Order on the Clerk of the Court, the Clerk shall maintain the documents filed at NYSCEF Doc. Nos. 737, 739, and 741 in their redacted form; and it is further


ORDERED that as it relates to future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Decision and 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 document is contemporaneously filed under seal; and it is further

ORDERED that nothing in this Decision and Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial; and it is further

¹ *IKB Int'l S.A. in Liquidation v. Deutsche Bank Nat'l Tr. Co.*, Index 654439/2015.
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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).

The foregoing constitutes the Decision and Order of the Court.

May 29, 2025 DATE			 ANAR RATHOD PATEL, A.J.S.C.
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
APPLICATION:	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/> GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/> OTHER
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT
		<input type="checkbox"/> DENIED	<input type="checkbox"/> REFERENCE