

Matter of Interest Fin., LLC v Drivewealth, LLC
2025 NY Slip Op 32883(U)
July 29, 2025
Supreme Court, New York County
Docket Number: Index No. 651535/2025
Judge: Margaret A. Chan
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 49M

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IN THE MATTER OF THE APPLICATION INTEREST FINANCIAL, LLC, <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">- v -</p> DRIVEWEALTH, LLC, <p style="text-align: center;">Respondent.</p>	<table border="0"> <tr> <td style="width: 30%;">INDEX NO.</td> <td style="border-bottom: 1px solid black;">651535/2025</td> </tr> <tr> <td>MOTION DATE</td> <td style="border-bottom: 1px solid black;">05/12/2025, 05/16/2025</td> </tr> <tr> <td>MOTION SEQ. NO.</td> <td style="border-bottom: 1px solid black;">002, 003</td> </tr> </table> <p style="text-align: center;">DECISION + ORDER ON MOTION</p>	INDEX NO.	651535/2025	MOTION DATE	05/12/2025, 05/16/2025	MOTION SEQ. NO.	002, 003
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HON. MARGARET A. CHAN:

The following e-filed documents, listed by NYSCEF document number (MS002) 12, 13, 14, 15, 16, 23, 32, 33
 were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (MS003) 51, 52, 53, 54, 56
 were read on this motion to/for SEAL

In this petition seeking to vacate an arbitration award, petitioner Interest Financial, LLC has filed two separate sealings motions. In Motion Sequence 002 (MS002), petitioner moves, by order to show cause (as amended), to seal (1) an unredacted copy of the Petition (NYSCEF # 16), which is filed as Exhibit 2 to the Affirmation of Deborah H. Renner, dated March 20, 2025, and (2) Exhibit 2 to the Affirmation of Daniel A. Schnapp, dated March 20, 2025 (NYSCEF # 5) (*see* NYSCEF # 33). And in MS003, petitioner moves, by order to show cause, to seal (a) an unredacted copy of petitioner’s reply and opposition to respondent’s cross-motion to confirm, which is filed as Exhibit 1 to the Affirmation of Sara Gates, dated April 25, 2025 (NYSCEF # 54), and (b) Exhibits 1, 2, 5, 6, 7, 8, 10, 11, 12, and 13 to the Affirmation of Daniel A. Schnapp, dated April 25, 2025 (NYSCEF #s 37, 38, 41, 42, 43, 44, 47, 48, 49) (*see* NYSCEF # 56). Neither motion is opposed.

To support MS002, petitioner explains that the information that it seeks to seal in its petition involves past and projected numbers of customers and active depositors, as well as the financial value associated with the amounts of active depositors (NYSCEF # 13 at 3, citing NYSCEF # 1 ¶¶ 6, 11, 64, 85, 88, 97, 102, 106, 110, 170). Petitioner explains that this information constitutes commercially sensitive business information regarding its customers and users, and that disclosure to a competitor would be harmful to petitioner’s business (*id.*). But with regard to Exhibit 2 to the Affirmation of Daniel Schnapp, which is a Carrying

Agreement between the parties (NYSCEF # 5), petitioner avers that, although portions of the agreement had been designated as confidential by respondent during the parties' arbitration, petitioner maintains no position on the appropriateness of keeping this document under seal (NYSCEF # 13 at 4). Instead, it avers that it is filing the document under seal to provide respondent with an opportunity to make its own sealing application (*id.* at 4).

Turning to MS003, petitioner explains that it seeks leave to seal certain emails that were marked confidential pursuant to the parties' confidentiality agreement (NYSCEF # 41) and excerpts of its pre- and post-hearing briefing submitted in the arbitration (NYSCEF #s 47, 79) (*see* NYSCEF # 52 at 3-4). Petitioner explains that the emails it seeks to seal contain information concerning petitioner's customer data, while the excerpts of pre- and post-hearing briefing also reference confidential information concerning petitioner's customer data (*id.* at 3). Petitioner avers that this information would disclose commercially sensitive business information regarding petitioner's inner workings and customer statistics, and thus there is a compelling interest to seal (*id.*). As for the remaining documents at issue in MS003—namely the unredacted copy of petitioner's opposition and certain additional materials referenced therein (*see* NYSCEF #s 37, 38, 41, 43, 44, 46, 48, 54)—petitioner again asserts that it takes no position on the redaction/sealing of these materials, and it is instead including these documents as part of its sealing motion to afford respondent an opportunity to make an application to seal (*see* NYSCEF # 52 at 4).

Under New York law, there is a presumption that the public is entitled to access to judicial proceedings and court records (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010], citing *Mancheski v Gabelli Group Capital Partners*, 39 AD3d 499, 501 [2d Dept 2007]). The public's right to access, however, is not absolute (*Danco Labs. v Chemical Works of Gedeon Richter*, 274 AD2d 1, 8 [1st Dept 2000]), and a court is empowered to seal or redact court records pursuant to section 216.1 (a) of the Uniform Rules for Trial Courts upon a showing of "good cause" (22 NYCRR 216.1 [a]). Good cause must "rest on a sound basis or legitimate need to take judicial action." (*Danco Labs.*, 274 AD2d at 8.)

Here, a review of the unredacted documents sought to be sealed by petitioner as part of MS002 and MS003, as well as the narrow proposed redactions contained in the Petition, establishes that petitioner is largely targeting confidential business information for which there is no relevant public interest. Given the narrow redactions that petitioner seeks to apply to the Petition (*see* NYSCEF # 1 ¶¶ 6, 11, 64, 85, 88, 97, 102, 106, 110, 170), as well as the sensitivity of the information in the emails and briefing excerpts sought to be sealed (*see* NYSCEF #s 41, 47, and 49), the court finds good cause for the sealing of Exhibit 2 to the Affirmation of Deborah H. Renner, dated March 20, 2025 (NYSCEF # 16), which contains an unredacted copy of the Petition, and Exhibits 5, 11, and 13 to the Affirmation of Daniel A. Schnapp, dated April 25, 2025 (NYSCEF #s 41, 47, 49) (*see Dawson v White &*

Case, 184 AD2d 246, 247 [1st Dept 1992] [sealing is warranted in the absence of “any legitimate public concern, as opposed to mere curiosity, to counter-balance the interest of defendant’s partners and clients have in keeping their financial arrangements private”]; *Mancheski*, 39 AD3d at 501 [finding compelling interest for sealing where “disclosure could impinge on the privacy rights of third parties who clearly are not litigants herein”]; *YH Lex Estates LLC v HFZ Capital Group LLC*, 2022 WL 2612450, at *2 [Sup Ct, NY County, July 8, 2022] [granting motion to seal bank records because they “contain sensitive financial information”]).

However, it bears noting that not all of the information contained in the pre- and post-hearing briefing submitted by petitioner is confidential in nature. For example, certain portions of these pre- and post-hearing briefing excerpts only include summaries of legal authorities and non-confidential arguments proffered during the course of the arbitration (*see e.g.* NYSCEF # 49 at 33). Accordingly, the court denies application insofar as petitioner seeks a wholesale sealing of these documents without any proposed redactions. Although the court will seal the already-submitted unredacted documents based on its above finding of good cause, petitioner is nevertheless directed to file a new motion to seal that includes proposed, public-facing redactions for the court’s review.

With regard to the remainder of petitioner’s sealing motions, which seek to seal certain materials and briefing to provide respondent an opportunity to make an appropriate application (*see* NYSCEF #s 5, 37, 38, 41, 43, 44, 46, 48, 54), petitioner’s motion is also denied without prejudice for *respondent* to make an appropriate application to seal these materials and submit proposed redactions to petitioner’s opposition brief. Respondent will have 30 days from the entry of this order to make such an application, and the purportedly confidential materials will remain temporarily restricted during that time.

Accordingly, it is hereby

ORDERED that petitioner’s motion to maintain under seal (1) an unredacted copy of the Petition, which is filed as Exhibit 2 to the Affirmation of Deborah H. Renner, dated March 20, 2025 (NYSCEF # 16), and (2) Exhibit 2 to the Affirmation of Daniel A. Schnapp, dated March 20, 2025 (NYSCEF # 5) is granted to the extent of sealing the unredacted Petition at NYSCEF Doc. No. 16 and denied in all other respects without prejudice for respondent to make a sealing application; and it is further

ORDERED that respondent’s motion to maintain under seal (a) an unredacted copy of petitioner’s reply and opposition to respondent’s cross-motion to confirm, which is filed as Exhibit 1 to the Affirmation of Sara Gates, dated April 25, 2025 (NYSCEF # 54), and (b) Exhibits 1, 2, 5, 6, 7, 8, 10, 11, 12, and 13 to the Affirmation of Daniel A. Schnapp, dated April 25, 2025 (NYSCEF #s 37, 38, 41, 42, 43, 44, 47, 48, 49) is granted, in part, insofar as sealing Exhibit 5, 11, and 13 to the

Affirmation of Daniel A. Schnapp (NYSCEF #s 41, 47, 49), denied, in part, with respect to Exhibits 11 and 13 to the Affirmation of Daniel A. Schnapp to allow petitioner to renew its motion with proposed redactions to these documents, and denied as to the remainder of the documents without prejudice for respondent to make a sealing application; and it is further

ORDERED that the Clerk of the Court is directed, upon service of a copy of this Decision and Order with notice of entry, to seal the unredacted documents at NYSCEF Doc. Nos. 16, 41, 47, and 49; and it is further

ORDERED that thereafter, or until further order of the court, the Clerk of the Court shall deny access to the unredacted version of these documents (NYSCEF #s 16, 41, 47, and 49) to anyone (other than the staff of the Clerk or the court) except for counsel of record for any party to this action, any party, and any representative of the counsel of record for a party upon presentation to the County Clerk of written authorization from said counsel and appropriate identification; and it is further

ORDERED that the Clerk of the Court is further directed to keep Exhibit 2 to the Affirmation of Daniel A. Schnapp, dated March 20, 2025, Exhibits 1, 2, 6, 7, 8, 10, and 12, to the Affirmation of Daniel A. Schnapp, dated April 25, 2025, and Exhibit 1 to the Affirmation of Sara Gates, dated April 25, 2025, located, respectively, at NYSCEF Doc. Nos. 5, 37, 38, 42, 43, 44, 46, 48, under temporary restriction from public access except to the parties, their attorneys, and court personnel for a period of 30 days following the e-filing of this order; and it is further

ORDERED that, after those 30 days, the documents shall be unsealed unless and until further order of the court; 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 at the address www.nycourts.gov/supctmanh).

MARGARET A. CHAN, J.S.C.

7/29/2025

DATE

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE