

Enterprise v Shvo

2024 NY Slip Op 33995(U)

November 9, 2024

Supreme Court, New York County

Docket Number: Index No. 653221/2024

Judge: Andrea Masley

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 48

-----X

JENNIE ENTERPRISE, DANGENE ENTERPRISE, CORE
GLOBAL HOLDINGS LLC, CORE GLOBAL VENTURES
LLC, CORE 5TH AVENUE LLC, and CORE SF LLC,

Plaintiffs,

- v -

MICHAEL SHVO, SHVO CONCEPTS, LLC, SHVO
HOLDINGS INC., SHVO CAPITAL LLC, SHVO
DEVELOPMENT LLC, SHVO REALTY INVESTORS LLC,
SHVO, INC., SHVO ENTERPRISES LLC, SHVO
PROPERTY MANAGEMENT LLC, SHVO CARRY 711
LLC, SEREN MANAGING MEMBER 711 LLC, BH EJ
CORE LLC, 711 FIFTH AVE PRINCIPAL OWNER LLC,
BHSD TPC PROPCO LLC, DEUTSCHE FINANCE
AMERICA LLC, DEUTSCHE FINANCE GROUP,
UNIVERSAL INVESTMENT GESELLSCHAFT MBH,
UNIVERSAL INVESTMENT GROUP, and BAYERISCHE
VERSORGUNGSKAMMER,

Defendants.

-----X

INDEX NO. 653221/2024
MOTION DATE --
MOTION SEQ. NO. 003

**DECISION + ORDER ON
MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 003) 49, 50, 51, 52, 53, 54, 58, 59, 60, 61

were read on this motion to/for SEAL.

In motion sequence 003, defendants Michael Shvo, Shvo Concepts, LLC, Shvo Holdings Inc., Shvo Capital LLC, Shvo Development LLC, Shvo Realty Investors LLC, Shvo, Inc., Shvo Enterprises LLC, Shvo Property Management LLC, Shvo Carry 711 LLC, Seren Managing Member 711 LLC, and BH EJ Core LLC move pursuant to the Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to redact Lease

Agreement (NYSCEF Doc. Nos. [NYSCEF] 19, 52¹).² The motion is unopposed. There is no indication that the press or public have an interest in this matter.

“Under New York law, 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] [citations omitted].) The public’s right to access is, however, not absolute, and under certain circumstances, “public inspection of court records has been limited by numerous statutes.” (*Id.* at 349.) One of those statutes is section 216.1 (a) of the Uniform Rules for Trial Courts, which empowers courts to seal documents upon a written finding of good cause. It provides:

“Except where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except 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. Where it appears necessary or desirable, the court may prescribe appropriate notice and opportunity to be heard.” (22 NYCRR § 216.1.)

The “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Mosallem*, 76 AD3d at 349 [citations omitted].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Lab Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000] [internal quotation marks omitted].)

Movants have met their burden of establishing good cause to redact the Lease Agreement as proposed, specifically, to redact (i) the monthly and annual rent amounts and (ii) the maximum amount that landlord agreed to pay towards landlord’s work. A

¹ A public copy with the proposed redactions is filed at NYSCEF 53.

² This court previously declined to seal the Lease Agreement in its entirety. (See NYSCEF 46, Decision and Order at 2-3 [mot. seq. no. 002].)

party “ought not to be required to make their private financial information public ... where no substantial public interest would be furthered by public access to that information.” (*D’Amour v Ohrenstein & Brown*, 17 Misc 3d 1130[A], 2007 NY Slip Op 52207[U], *20 [Sup Ct, NY County 2007] [citations omitted].) Movants have an interest in keeping lease clauses that contain financial information private and there has been no showing of a legitimate public interest in this information. Thus, the Lease Agreement shall be redacted as proposed.

Accordingly, it is

ORDERED that motion sequence 003 is granted; and it is further

ORDERED that the County Clerk shall seal NYSCEF 19 and 52; and it is further

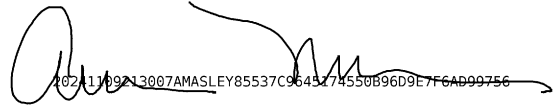
ORDERED the New York County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in this action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that movants serve a copy of this order upon the Clerk of the Court and the Clerk of the General Clerk’s Office 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); and it is further

ORDERED that if any party seeks to redact identical information in future filings that the court is permitting to be redacted here, that party shall submit a proposed

sealing order to the court (via SFC-Part48@nycourts.gov and NYSCEF) instead of filing another seal motion; and it is further

ORDERED that this order does not authorize sealing or redacting for purposes of trial.



1021109213007AMASLEY85537C9645274550B96D9E7F6AD99756

11/9/2024
DATE

ANDREA MASLEY, 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