

**Mistryrise Intl. Ltd. v Corporacion Electrica Nacional
S.A.**

2024 NY Slip Op 34216(U)

November 24, 2024

Supreme Court, New York County

Docket Number: Index No. 655219/2021

Judge: Joel M. Cohen

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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MISTYRISE INTERNATIONAL LIMITED,
Plaintiff,

- v -

CORPORACION ELECTRICA NACIONAL S.A.,
Defendant.

INDEX NO. 655219/2021

MOTION DATE 08/02/2024

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66 were read on this motion to/for SEAL.

Plaintiff Mistyris International Limited (“Mistyris”) seeks an order sealing documents that were filed in connection with its motion for an order of attachment as NYSCEF Document Numbers 35, 36, 39, 43, and 44 (the “Attachment Documents”). For the following reasons, Mistyris’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]).

Mistryrise seeks to seal the Attachment Documents in their entirety because they contain information designated as confidential by nonparty Citibank, N.A. (“Citibank”) pursuant to a confidentiality stipulation entered into between Mistryrise and Citibank on April 5, 2024. Citibank, however, responded to this motion via letter (NYSCEF 53) proposing a more targeted series of redactions to protect its confidential information. Because Mistryrise advances no interest other than Citibank’s, and because narrowly targeted redactions are more likely to be permitted than the sealing of an entire document or court file (*see Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000]), the Court will evaluate this motion based on Citibank’s proposals, which are filed as NYSCEF Documents 56, 57, 58, 59, and 60.

The Court has reviewed Citibank’s proposed redactions of the documents filed as NYSCEF Document Numbers 35, 36, 43, and 44 and finds that they comport with the applicable sealing standard as laid out in *Mosallem*, 76 AD3d at 348-350, and its progeny, in that they contain sensitive and confidential business and financial information. The proposed redactions to the document filed as NYSCEF Document Number 39, however, warrant further discussion.

Exhibit C to the Affirmation of Sigmund Wissner-Gross (NYSCEF 39)

This document consists of bank records produced by Citibank. Redaction of all but the last four digits of bank account numbers and tax identification numbers is warranted (*see* 22 NYCRR § 205.5 [e] [i], [iv]). As to the names, contact information, and ID numbers of Citibank’s employees, the Court finds that the proposed redactions thereof are appropriate because the employees’ privacy interests outweigh the public right to access because the identities of the employees are not relevant to Plaintiff’s Motion for an Order of Attachment, the employees are not parties to this litigation, and Citibank has raised a possibility of retaliation against the employees, some of whom are Venezuelan citizens (*see Bostwick v Christian Oth, Inc.*, 2010 WL 3940892 [Sup Ct, NY County, Sept. 27, 2010, No. 116010/09] [finding sealing appropriate where document was irrelevant to the motion], *affd* 91 AD3d 463 [1st Dept 2012]; *Mancheski*, 39 AD3d at 502 [noting compelling interest in privacy rights of nonparties]; *Danco Labs., Ltd. v Chem. Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000] [“The identities of persons legitimately exposed to violence may be similarly protected”]).

As to the internal codes used by Citibank to record actions taken with respect to the account and correspondence reflecting Citibank’s confidential business practices in opening and assigning credit ratings to its clients’ accounts, the Court likewise finds that the proposed redaction of this information comports with the applicable sealing standard as laid out in *Mosallem* (76 AD3d at 348-35) and its progeny, in that the redacted text contains sensitive and confidential business and financial information.

The identity of nonparty authorized individuals on the account, on the other hand, is relevant to Mistyrise’s attachment motion. Further, the activities of government officials are a matter of public concern, and Citibank has not raised issues regarding the safety of those

individuals should their names be disclosed. As such, the Court does not find that Mistyrise (or Citibank, in its letter) has met its burden “to demonstrate compelling circumstances to justify restricting public access” to the names of those individuals (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]). To the extent the redactions are targeted at the *contact information* of those individuals, however, the Court finds that the named individuals’ privacy interests outweigh the interest in public disclosure.

The rationale for blocking the funds is likewise relevant to the attachment motion. Though Citibank refers to its rationale as “proprietary bank information” (NYSCEF 64 at 1), it is explicitly based on a public Executive Order. The Court does not find sufficient grounds to redact this portion of the document.

Accordingly, it is

ORDERED that Plaintiff’s motion to seal the Attachment Documents is **granted in part** to the extent of Citibank’s proposed redactions to the documents filed as NYSCEF 35, 36, 43, and 44; it is further

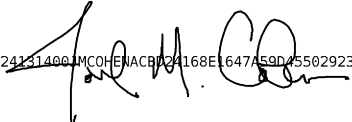
ORDERED that the County Clerk shall maintain the documents filed as NYSCEF Document Numbers 35, 36, 43, and 44 under seal, so that the documents may be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that Plaintiff file redacted copies of NYSCEF Document Numbers 35, 36, 43, and 44 within 21 days of this Decision and Order; and it is further

ORDERED that the document filed as NYSCEF Document Number 39 shall remain provisionally sealed for 21 days from the date of the Court’s entry of this Decision and Order on NYSCEF. If Plaintiff files a new motion to seal or redact confidential portions of NYSCEF 39 consistent with this Decision and Order within that 21-day period, the document shall remain

provisionally sealed pending resolution of that motion. If no such motion is filed within 21 days from the entry of this Decision and Order, the parties shall alert the County Clerk that the motion to seal NYSCEF 39 has been denied by the Court and that the documents should be unsealed on NYSCEF.

This constitutes the Decision and Order of the Court.

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JOEL M. COHEN, J.S.C.

11/24/2024
DATE

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