

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

RACHEL POUYAFAR, on behalf of herself
and all others similarly situated,

Plaintiff,

-v-

YUNHAI QUAN and JOHN DOE NOS. 1-25,

Defendants.

Index No.: 654820/2023

**CLASS PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF ORDER TO
SHOW CAUSE FOR A SEALING ORDER**

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PRELIMINARY STATEMENT

Class Plaintiff Rachel Pouyafar (“Class Plaintiff”) and other similarly situated holders of cryptocurrency (“Prospective Class Members”), are victims of Defendants’ “pig butchering” scheme, in which Defendants misappropriated Class Plaintiff’s and Prospective Class Members’ cryptocurrency.

Class Plaintiff’s counsel was able to trace funds stolen from Class Plaintiff by Defendants and applied ex parte to this Court for a TRO and preliminary injunction freezing those assets before Defendant could move them beyond reach, forever depriving Class Plaintiff of her crypto assets. This Court granted the TRO and preliminary injunction.¹

Class Plaintiff’s counsel has used the same technology and methodology used to trace assets Defendants stole from Class Plaintiff to trace assets stolen by Defendants from other victims of the same pig butchering scheme. In an effort to prevent Defendants from absconding with their ill-gotten gains, Class Plaintiff has amended her complaint to bring a class action on behalf of the Prospective Class Members, and applied to the Court for a TRO and preliminary injunction freezing the crypto wallets containing the assets stolen from Prospective Class Members and restraining Defendants from transferring those assets.

Class Plaintiff applies for an order temporarily sealing the First Amended Complaint, the Proposed Order to Show Cause for a TRO and Preliminary Injunction, the Affirmation of Charles Zach in support dated December 8, 2023, and the Memorandum of Law in Support of Class Plaintiffs’ Motion for a TRO and Preliminary Injunction dated December 8, 2023 (together, the

¹ [NYSCEF Doc. No. 8](#), [NYSCEF Doc. No. 9](#), [NYSCEF Doc. No. 17](#).

“Requested Sealing Documents”), until such time as the Court enters a TRO freezing the assets and the assets have been successfully frozen.

As set forth in the accompanying Affirmation of Charles Zach in support of this motion to seal, to file these documents publicly before entry of a TRO would allow Defendants the time necessary to move the stolen assets beyond the reach of Class Plaintiff and the Proposed Class Members, thereby defeating any subsequent Court order freezing the assets.

BACKGROUND

Class Plaintiff Pouyafar, a realtor, was targeted by one or more of Defendants, who contacted her via WhatsApp pretending to be “Yunhai Quan” (“Quan”). Affidavit of Rachel Pouyafar, dated September 28, 2023 (“Pouyafar Affidavit”) ([NYSCEF Doc. No. 6](#)) at ¶ 4.) Quan told Class Plaintiff he was seeking to purchase a home using Class Plaintiff as an agent. (*Id.*) Quan won Plaintiff’s trust by convincing her that he wanted to buy a New York residence through her, with a budget of \$5.7 million, and was willing to help her invest in return. (*Id.* at ¶ 4.) Quan then persuaded Plaintiff to deposit funds—initially just \$500 on July 31, 2023—in what appeared to be an account at QuedEx, a regulated crypto trading platform. (*Id.* at ¶ 9.) Quan then provided false reports indicating that Plaintiff had made profits trading cryptocurrency assets. (*Id.*) After Plaintiff deposited more money, Quan further won Plaintiff’s trust by permitting her to “withdraw” approximately \$8,000 in supposed profit. (*Id.* at ¶ 10.)

The scheme continued during August 2023, with additional false reports of “profits,” as described in detail in the Pouyafar Affidavit. (*Id.* at ¶ 11.) Plaintiff deposited a total of approximately \$240,500 from July 31, 2023 through August 22, 2023. (*Id.* at ¶ 11.)

As an investigation by Plaintiff’s counsel uncovered, there were no QuedEx accounts, no investments, and no profits. (Affirmation of Charles Zach, dated September 29, 2023 ([NYSCEF Doc. No. 5](#)) (“September Zach Affirmation”) at ¶ 11.) Instead, Defendants’ reports were fictitious,

falsely indicating that Class Plaintiff Pouyafar's investments had made money when in truth her funds were not invested at all. (Id.)

Instead, Defendants engaged in numerous rapid-fire digital transactions to convert Class Plaintiff's property and hide the locations of her cryptocurrency assets. (Id. at ¶¶ 12-26.) The details of these transactions are set forth in the September Zach Affirmation. (Id.) The investigation by counsel uncovered the current location of her stolen cryptocurrency assets within a Binance hot wallet. (Id. at ¶ 27.) The Court previously issued a TRO and preliminary injunction freezing this hot wallet.²

As set forth in the Requested Sealing Documents, further analysis of the movement of funds stolen from Class Plaintiff Pouyafar uncovered a substantial number of additional crypto wallets holding funds that Defendants have stolen from Prospective Class Members. These Prospective Class Members were similarly enticed to deposit small initial amounts followed by bigger sums, which were then, as with Class Plaintiff's assets, routed through a maze of cryptocurrency transactions before ending up in the same "pivot address" for the network. Counsel for Class Plaintiff have discovered the current location of these assets stolen from the Prospective Class Members.

As set forth in the accompanying Affirmation of Charles Zach, Defendants can move these assets at any time, without notice to Class Plaintiff or the Prospective Class Members, so it is essential that these wallets are frozen before Defendants can move the funds.

² [NYSCEF Doc. No. 8](#), [NYSCEF Doc. No. 9](#), [NYSCEF Doc. No. 17](#).

ARGUMENT

While the public “is entitled to access to judicial proceedings and court records,” Mosallem v. Berenson, 76 A.D.3d 345, 348 (1st Dept. 2010), a court may seal court records on a finding of “good cause.” 22 N.Y.C.R.R. 216.1(a). Here, good cause exists because if the information in the Requested Sealing Documents was made publicly available before the Court heard Plaintiffs’ application for a temporary restraining order and preliminary injunction, the Defendants could instantaneously move Plaintiffs’ stolen assets and make the assets unrecoverable. There is minimal, if any, public interest in the immediate release of information in the Requested Sealing Documents during the time before this Court’s TRO ruling.

A. Good Cause Exists to Seal The Documents

Courts in New York regularly find risk of loss of an asset good cause for sealing. See Crain Comms., Inc. v. Hughes, 135 A.D.2d 351, 352 (1st Dept. 1987), aff’d, 74 N.Y.2d 626 (1989) (good cause for sealing where public filing risked disclosure of trade secret); see also D’Amour v. Ohrenstein & Brown, LLP, 17 Misc. 3d 1130(A), 851 N.Y.S.2d 68 (Sup. Ct. N.Y. Cnty. 2007) (“Sealing a court file may be appropriate to preserve the confidentiality of materials which involve the internal finances of a party and are of minimal public interest.”)

“Good cause” is warranted where the release of documents would cause harm to the party’s business. Mosallem, 76 A.D.3d at 350-51. Here, as set forth in the accompanying Affirmation of Charles Zach, the public release of the information in the Requested Sealing Documents would enable Defendants to immediately and irrevocably abscond with Class Plaintiffs’ assets.

In sum, there is good cause for sealing the Requested Sealing Documents and temporarily sealing the Requested Sealing Documents for the period between the time they are filed and the time the Court has the opportunity to rule on the motion for a TRO is thus warranted.

B. There Is Limited, if Any, Public Concern at Issue

New York courts show much less deference to the presumption of public access when the records do not implicate any “legitimate public concern.” See Macedon v. Hsarman, 844 N.Y.S.2d 825, 833 (Sup. Ct. Wayne Cnty. 2007) (granting motion to seal considering “the sensitive nature of this proprietary business information and the minimal interest of the public with respect to having access to the information”); see also Crain Comms., Inc. v. Hughes, 135 A.D.2d 351, 352 (1st Dept. 1987) (where there is “no showing of any legitimate public concern, as opposed to mere curiosity, to counterbalance ... the resultant prejudice to the [] parties,” the disclosure of commercially sensitive information is unwarranted).

This is a case of theft that is “of minimal public interest,” unlike, for example, cases that involve product liability issues. Feffer v. Goodkind, Wechsler, Labaton & Rudolf, 152 Misc. 2d 812, 815-16 (Sup. Ct. N.Y. Cnty. 1991), aff’d sub nom. Feffer v. Goodkind, Wechsler, Labaton & Rudoff, 183 A.D.2d 678 (1st Dept. 1992).

Further, Class Plaintiff asks that the documents be sealed for a brief period of time—until the Court has time to decide whether to grant Class Plaintiff’s TRO. The immediate public disclosure of the documents would not further any “countervailing public interest.” JetBlue Airways Corp. v. Stephenson, No. 650691/2010, 2010 WL 6781684, at *6 (Sup. Ct. N.Y. Cnty. Nov. 22, 2010) (ordering business records sealed).

Thus, the Requested Sealing Documents should be temporarily filed under seal.

CONCLUSION

For the reasons set forth above, Class Plaintiff respectfully requests that the Court grant

Plaintiff's motion to seal and temporarily seal the Requested Sealing Documents.

Dated: New York, New York
December 8, 2023

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ATTORNEY CERTIFICATION PURSUANT TO 22 N.Y.C.R.R. 202.8-b

I, Brice Jastrow, an attorney duly admitted to practice law before the courts of the State of New York, hereby certify that this Memorandum of Law contains 1,725 words and therefore complies with the word count limit set forth in 22 N.Y.C.R.R. 202.8-b because it contains fewer than 7,000 words, excluding the parts of the memorandum exempted by 202.8-b. In preparing this certification, I have relied on the word count of the word processing system used to prepare this memorandum of law.

Dated: New York, NY
December 8, 2023

/s/ Brice Jastrow

Brice Jastrow