

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

ANDREW CHAIT, on behalf of himself)
and all others similarly situated,)
)
Plaintiff,)
)
-against-)
)
WENDY LEE, EILEEN BURBRIDGE,)
MARY SCOTT, VERA, ETTIE LEE,)
KEIKO FUJIWARA and JOHN DOE NOS. 1-25,)
)
Defendants.)
_____)

Index No. _____

**CLASS PLAINTIFF’S MEMORANDUM OF LAW
IN SUPPORT OF ORDER TO SHOW CAUSE FOR A SEALING ORDER**

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Attorneys for Plaintiff

PRELIMINARY STATEMENT

Class Plaintiff Andrew Chait (“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 has 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.

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 applied to the Court for a TRO and preliminary injunction freezing the crypto wallets containing the assets stolen from him and Prospective Class Members and restraining Defendants from transferring those assets.

Class Plaintiff applies for an order allowing him to temporarily file under seal unredacted copies of:

- (a) The Complaint dated October 23, 2024;
- (b) Class Plaintiff’s Affirmation in support of his proposed Order to Show Cause for a preliminary injunction and a temporary restraining order, dated October 22, 2024;
- (c) The Affirmation of Charles Zach in support of the proposed Order to Show Cause for a preliminary injunction and a temporary restraining order, dated October 23, 2024,
- (d) The Memorandum of Law in Support of Class Plaintiff’s proposed Order to Show Cause for a preliminary injunction

and a temporary restraining order (together with the other documents, the “Requested Sealed Documents”),

and publicly file redacted versions of those documents to the extent practicable, until the Court rules on Plaintiff’s application for a temporary restraining order freezing certain cryptocurrency held at the wallet addresses listed in Appendix A to the Complaint in this action (the “Deposit Wallets”) and any order of the Court freezing such wallets is implemented.

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

“Pig butchering” is a scheme in which scammers promise victims returns on crypto investments and then fabricate evidence of positive performance of those investments on fake websites made to look like functioning cryptocurrency trading venues or investment companies. The “butcherers” do so to entice victims to “invest” more money. When the victims have been sufficiently “fattened” with false profits, scammers steal the victims’ cryptocurrency, and cover their tracks by moving the stolen property through a maze of subsequent transactions. “Pig butchering” victims in the United States have lost billions of dollars and “pig butchering” schemes have been the subject of state and federal government investigation and prosecution.

Plaintiff Andrew Chait is the Vice President and CFO of Ralph M. Chait Galleries, the oldest specialist gallery in the United States in the field of fine antique Chinese porcelain and works of art, based in Manhattan. Chait was unfortunately the victim of five interrelated pig butchering schemes perpetrated by Defendants in rapid succession, all of which used apparently fictitious identities: 1) Wendy Lee and Eileen Burbridge; 2) Mary Scott; 3) Verna; 4) Ettie Lee;

and 5) Keiko Fujiwara.

Additional details about these schemes and Plaintiff's investigation into it are set forth in the Requested Sealed Documents, but in short, Defendants used these fictitious personas to gain Plaintiff's trust and perpetrate the interrelated schemes. While these schemes used different fake identities and separate phony websites, Plaintiff's counsel and experts have been able to determine that the ill-gotten gains from these schemes were funneled through the same interconnected maze of cryptocurrency "wallets." In other words, the same person or persons were behind all of the fictitious identities that Defendants used and are all part of the same overarching criminal enterprise.

After Mr. Chait was unable to recover his funds, he contacted Inca Digital ("Inca"), a digital market investigation firm. Inca's investigation revealed that Defendants orchestrated a common scheme to steal money from Mr. Chait and similarly situated Class Members. The investigation further determined that these stolen funds were transferred to cryptocurrency wallets under Defendants' control, which are listed in Appendix A of the Complaint.

Inca's investigation revealed that Defendants used fake platforms to move and convert Class Members' assets, transferring the funds through a series of transactions designed to obscure their origins. Inca's investigation was conducted in two precise, reliable, and replicable phases.

In Phase One, Inca's "forward tracing" began tracking the flow of funds by examining transfers from Mr. Chait to the addresses he was given by Defendants, and then tracking subsequent transfers. This process involved three steps: (1) identifying the addresses of wallets that initially received Mr. Chait's assets; (2) tracking the subsequent transfer of those assets to intermediary addresses; and (3) determining that the Mr. Chait's assets were ultimately deposited into the wallets listed in Appendix A.

In phase two, Inca conducted a “reverse trace,” which involved tracing funds flowing into the wallets identified during phase one. Through this analysis, Inca uncovered further wallet addresses involved in the same transaction patterns as Mr. Chait’s funds, thus revealing a broader network of wallets involved in the scam. This tracing methodology confirmed the involvement of exchange-controlled and privately held wallets in the misappropriation of Class Members’ funds.

Through its forward tracing and reverse tracing analysis, Inca’s investigation uncovered a network of cryptocurrency wallets through which Class Member funds were funneled. Many of these wallets are associated with suspicious activity, including known scams, darknet-related activity, or are listed by the U.S. Office of Foreign Assets Control. The number of these wallets present in the network shows that the whole network is controlled by the perpetrators of a fraudulent crypto scheme. Further, the interactions between the wallets in the network is highly indicative of fraudulent activity. Specifically, the network contains wallets engaging in behavior that is associated with cryptocurrency fraud schemes and is rarely if ever associated with legitimate cryptocurrency transactions.

As set forth in the Requested Sealing Documents, after analysis of the movement of funds stolen from Class Plaintiff, his team uncovered a substantial number of additional crypto wallets holding funds that Defendants have stolen from Prospective Class Members. 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.

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 NYCRR 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
October 23, 2024

MANDEL BHANDARI LLP

By: /s/ Rishi Bhandari

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

I, Rishi Bhandari, an attorney duly admitted to practice law before the courts of the State of New York, hereby certify that this Memorandum of Law contains 1,957 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
October 23, 2024

/s/ Rishi Bhandari

Rishi Bhandari