

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

BLUE FLAME MEDICAL LLC,

Plaintiff,

v.

CHAIN BRIDGE BANK, N.A., JOHN J.
BROUGH, and DAVID M. EVINGER,

Defendants.

Civil Action No. 1:20-cv-00658

CHAIN BRIDGE BANK, N.A.,

Third-Party Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Third-Party Defendant.

[PROPOSED] ORDER GRANTING MOTIONS FOR LEAVE TO FILE UNDER SEAL

Before the Court are the *Motion to File Audio Recording Supporting Motion for Summary Judgment Under Provisional Seal* (Dkt. No. 115) filed by Third-Party Defendant JPMorgan Chase Bank, N.A. (JPMorgan) and the *Motion for Leave to File Document Under Seal for Good Cause* (Dkt. No. 125) filed by Plaintiff Blue Flame Medical LLC (Blue Flame), both dated May 6, 2021 (collectively, the Motions to Seal). As directed in this Court's Order of May 7, 2021 (Dkt. No. 133), Defendants Chain Bridge Bank, N.A. John J. Brough, and David M. Evinger have filed a *Memorandum in Support* of the Motions to Seal (Dkt. No. ____).

In the Motions to Seal, JPMorgan requested leave to file under seal Exhibit 5 to the *Declaration of Meredith K. Loretta* (Dkt. No. 113-1) submitted in support of JPMorgan's motion

for summary judgment, and Blue Flame requested leave to file under seal Exhibit 30 to the *Affirmation of Peter H. White* (Dkt. No. 132) submitted in support of Blue Flame's motion for summary judgment. Those two exhibits reproduce the same audio recording of a March 25, 2020, phone call between two Chain Bridge employees, which Defendants produced in discovery with the Bates label CBB00002797 and designated as "Confidential" under the terms of the Protective Order entered in this case. The memoranda in support of the Motions to Seal explain that JPMorgan's and Blue Flame's requests for sealing are based on Defendants' designation of the audio recording as Confidential under the Protective Order. Dkt. No. 116, Dkt. No. 126.

In Defendants' Memorandum in Support, Defendants submit that sealing of the exhibits is warranted because the audio recording contains a brief reference to the identity of a non-party Chain Bridge customer and that customer's use of a particular financial product. Defendants propose filing a redacted version of the audio recording for the public docket, with a one-second redaction applied in order to avoid disclosure of the non-party customer's identity.

There is a "presumption" favoring public access to court records and documents. *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000). "Accordingly, before a district court may seal any court documents, . . . it must (1) provide public notice of the request to seal and allow interested parties a reasonable opportunity to object, (2) consider less drastic alternatives to sealing the documents, and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives." *Id.*

The Court finds that all requirements for sealing are satisfied here. The public received notice of the request when JPMorgan and Blue Flame filed their Motions to Seal on May 6, 2021. See, e.g., *E.I. Du Pont de Nemours & Co. v. Kolon Indus., Inc.*, No. 3:09-CV-058, 2012 WL 1415638, at *2 (E.D. Va. Apr. 20, 2012). Furthermore, Defendants have not asked the Court to

seal the exhibits in their entirety. Rather, Defendants seek the “less drastic alternative” of filing the exhibits in redacted form. *See, e.g., ActiveVideo Networks, Inc. v. Verizon Commc’ns, Inc.*, No. 2:10-CV-248, 2011 WL 7046021, at *2 (E.D. Va. Dec. 7, 2011). Lastly, the Court finds that the information at issue is properly viewed as confidential and redacting it will not limit the public’s ability to observe and understand these proceedings. The non-party Chain Bridge customer has a “justifiable expectation of privacy that [its] name[] and financial records not be revealed to the public.” *In re Knoxville News-Sentinel Co.*, 723 F.2d 470, 477 (6th Cir. 1983); *see also; SunTrust Mortg., Inc. v. North Shore Bank*, No. 3:14-CV-385, 2015 WL 12778624, at *1 (E.D. Va. Jan. 22, 2015). Those “interests in privacy are sufficiently compelling to justify non-disclosure” of a non-party customer’s identity in this context. *In re Knoxville News-Sentinel Co.*, 723 F.2d at 477. The information that Defendants have proposed for redaction does not bear on the issues presented for decision in this case. Permitting “modest redaction,” as Defendants propose here, therefore would not obscure from the public’s view “the parties’ positions” in this litigation or the “legal and factual issues” before the court. *ActiveVideo Networks, Inc.*, 2011 WL 7046021, at *1.

Accordingly, the Court hereby **GRANTS** the Motions to Seal. The Court **ORDERS** that Exhibit 5 to the *Declaration of Meredith K. Loretta* and Exhibit 30 to the *Affirmation of Peter H. White* shall be maintained permanently under seal, and further **ORDERS** that Defendants shall file redacted, public versions of these exhibits by submitting audio recordings to the Court on a compact disc, pursuant to the procedure described in the Court’s May 5, 2021 Order Granting Consent Motion for Leave to Submit Audio Files (Dkt No. 111).

IT IS SO ORDERED.

ENTERED this _____ day of _____ 2021.

Leonie M. Brinkema
United States District Judge