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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 BBK Tobacco & Foods LLP,

10 Plaintiff,

11 v.

12 Central Coast Agriculture Incorporated, et
13 al.,

14 Defendants.

No. CV-19-05216-PHX-MTL

ORDER

15 **I.**

16 Before the Court are numerous motions to seal various documents and exhibits
17 (Docs. 294, 313, 319, 339, 343, 357, 361, 365, 370, 381, 402). The motions are fully
18 briefed, and the Court rules as follows.

19 **II.**

20 The public has a right to inspect and copy public judicial records and documents.
21 *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 567 (1978). Although the right is not
22 absolute, there is a “strong presumption in favor of access to court records.” *Ctr. for*
23 *Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096 (9th Cir. 2016) (quoting *Foltz*
24 *v. State Farm Mut. Aut. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). The party
25 requesting to seal a judicial record bears the burden of overcoming that presumption
26 by either showing “compelling reasons” if the record is a dispositive pleading or “good
27 cause” if the record is a non-dispositive pleading. *See Kamakana v. City & Cnty. of*
28 *Honolulu*, 447 F.3d 1172, 1179–80 (9th Cir. 2006); *see also Ctr. for Auto Safety*, 809 F.3d

1 at 1096–97. Motions to seal a summary judgement motion or its exhibits must meet the
2 compelling reasons standard. *See Kamakana*, 447 F.3d at 1179, 1181.

3 In Doc. 294, BBK seeks to seal certain sensitive financial information and
4 settlement strategies, including sales numbers and ratios for certain RAW products,
5 taxes and duties paid by BBK, and settlement terms exchanged between BBK and
6 CCA. The motion is unopposed by CCA. (Doc. 334.) Compelling reasons justify sealing
7 this information. Sources of business information that might harm a litigant’s competitive
8 standing may be filed under seal despite the public’s general right to inspect and copy
9 judicial records. *Warner Commc’ns, Inc.*, 435 U.S. at 598–99; *see also MD Helicopters*
10 *Inc. v. Boeing Co.*, No. CV-17-02598-PHX-JAT, 2019 WL 2184762, at *2 (D. Ariz.
11 May 21, 2019).

12 With respect to three of its pending motions to seal (Docs. 313, 339, 357), CCA
13 filed a Motion for Leave to File Amended Documents in Connection with a Partial
14 Withdrawal of Motions to Seal (Doc. 362). In that motion, CCA informs the Court that,
15 following conferral with BBK’s counsel, it has elected to withdraw certain portions of its
16 motions to seal. CCA also requests leave to file new versions of the redacted documents
17 previously filed on the public docket, in order to un-redact the portions CCA no longer
18 requests be filed under seal. CCA’s motion is unopposed (Doc. 371) and will be granted.
19 Thus, the Court will consider CCA’s motions to seal (Docs. 313, 339, 357) only as
20 amended.¹

21 In Doc. 313, CCA moves to seal portions of its motion to exclude Dr. On Amir
22 and exhibits 3–5 thereto, along with portions of its motion to exclude Francis Burns and
23 exhibits 1–5 thereto. (Docs. 313, 362, 375.) In Doc. 339, CCA moves to seal portions of
24 its opposition to BBK’s motion to exclude Khurshid Kohja; portions of its opposition
25 to BBK’s motion to exclude Dr. David Blackburn and exhibits A–C thereto; and portions
26 of its opposition to BBK’s motions to exclude Dr. Elisabeth Honka and Dr. Tülim
27 Erdem and exhibits B and I thereto. (Docs. 339, 375) In Doc. 357, CCA moves to seal

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¹ In its reply (Doc. 375), CCA agreed to withdraw additional portions of its motions to seal.

1 portions of its reply in support of its motion to exclude Dr. Jeffrey Stec; portions of its
2 reply in support of its motion to exclude Dr. On Amir; and portions of its reply in support
3 of its motion to exclude Francis Burns. (Docs. 357, 375.) These motions to seal are
4 unopposed (except as described above). Because the motions and exhibits are non-
5 dispositive, CCA need only show “good cause” for limiting the public’s access. *See*
6 *Kamakana*, 447 F.3d at 1180. CCA has done so. The information CCA seeks to file
7 under seal involves the company’s past sales and financial data, strategic plans, and market
8 research. For the same reasons the Court has previously ordered that such information may
9 be filed under seal (*see* Doc. 259), the motions will be granted.

10 In Doc. 319, CCA moves to seal portions of BBK’s motion for partial summary
11 judgment; exhibits 3, 4, and 21 to BBK’s motion for partial summary judgment; portions
12 of BBK’s motion to exclude Dr. David Blackburn and exhibits 1–6 thereto; and portions
13 of BBK’s motion to exclude Dr. Tülim Erdem and exhibits 3, 6, and 7 thereto. BBK
14 opposes CCA’s motion to seal with respect to portions of Craig Bobzin’s deposition,
15 which appears as exhibit 21 to BBK’s motion for partial summary judgment. (Doc. 320.)
16 Upon review, the Court holds that the following two excerpts of Bobzin’s deposition are
17 not confidential and that, accordingly, “compelling reasons” do not justify filing them
18 under seal: 72:0–73:5 and 80:12–83:18. Accordingly, CCA’s motion to seal those
19 excerpts will be denied. CCA’s motion will otherwise be granted.

20 In Doc. 343, CCA moves to seal portions of BBK’s opposition to CCA’s motion
21 to exclude Dr. On Amir; portions of BBK’s opposition to CCA’s motion to exclude Dr.
22 Jeffrey Stec, including exhibit A; and portions of BBK’s opposition to CCA’s motion to
23 exclude Francis Burns, including exhibits A and C. BBK opposes CCA’s motion to seal
24 with respect to its opposition to the Dr. Amir motion, its opposition to the Stec motion,
25 and exhibit C to its opposition to the Burns motion. (Doc. 369.) CCA has withdrawn its
26 requests to seal portions the Amir opposition, exhibit C to the Burns opposition, and
27 portions of the Stec opposition. (Doc. 374.) Thus, it requests only that the Court seal
28 portions of the Stec opposition and exhibit A to the Burns opposition. That narrower

1 request is unopposed, and the Court finds good cause justifying limiting public access.
2 Accordingly, CCA's motion to seal will be granted in part and denied in part as moot.

3 In Doc. 361, CCA moves to seal portions of BBK's reply in support of its motion
4 to exclude Dr. David Blackburn. The portions of the reply CCA moves to seal contain
5 CCA's past sales and other financial data. The motion is unopposed, and good cause
6 justifies limiting public access to such sensitive information. (Doc. 259 at 7.) The motion
7 will be granted.

8 In Doc. 365, CCA requests that the Court seal portions of CCA's opposition to
9 BBK's motion for partial summary judgment and portions of exhibits 5, 8, and 18–24 to
10 CCA's opposition. BBK opposes CCA's requests to seal exhibits B–C and F to exhibit 5
11 and exhibits 19, 20, and 30. (Doc. 376.) BBK's arguments are unpersuasive, and
12 compelling reasons support sealing the challenged exhibits, as they contain emails between
13 CCA employees and third parties regarding CCA's business plans and
14 potential partnerships. CCA's motion will therefore be granted.

15 In Doc. 370, BBK moves to seal footnote 26 to CCA's opposition to BBK's motion
16 for partial summary judgment. The motion is unopposed and compelling reasons justify
17 granting the motion. Footnote 26 contains sensitive financial information—sales ratios
18 based on non-public sales figures—that must remain confidential to protect
19 BBK's competitive interests. The motion will be granted.

20 In Doc. 381, CCA moves to seal a number of lines of BBK's reply in support of its
21 motion for partial summary judgment. BBK opposes CCA's motion in part. It argues
22 that compelling reasons do not justify sealing lines 2, 6, and 7 of page 16 of its reply. BBK
23 is right. The redacted statements are too vague to provide the public with any meaningful
24 information regarding CCA's strategic plans. CCA's motion will be denied with regard
25 to lines 2, 6, and 7 of page 16 and granted with regard to lines 10, 12, 13, 14, 15, and 16.

26 Finally, in Doc. 402, CCA moves to seal an exhibit to its supplemental filing in
27 support of its motion for summary judgment (Doc. 401). The exhibit includes confidential
28 information about CCA's strategy and timeline for releasing new products. Compelling

1 reasons justify limiting the public's access to such information. The motion will therefore
2 be granted.

3 **III.**

4 Accordingly,

5 **IT IS ORDERED granting** BBK's Motion to Seal (Doc. 294). The Clerk of the
6 Court is directed to file the unredacted version of BBK's motion for summary judgment
7 and exhibits 2, 9, 12, and 13 (lodged at Doc. 296) under seal.

8 **IT IS FURTHER ORDERED granting in part and denying in part as moot**
9 CCA's Motion to Seal (Doc. 313). The Clerk of the Court is directed to file the
10 unredacted versions of: CCA's motion to exclude Dr. On Amir and the exhibits thereto
11 (lodged at Doc. 310); and CCA's motion to exclude Francis Burns and the exhibits
12 thereto (lodged at Doc. 312), under seal. **IT IS FURTHER ORDERED striking** Doc.
13 309 and all attached exhibits from the record. **IT IS FURTHER ORDERED** directing
14 CCA to file amended versions of its motion to exclude Dr. Amir and all attached
15 exhibits, that reflect the proper redactions in light of this Order and CCA's prior
16 filings (Docs. 362, 375).

17 **IT IS FURTHER ORDERED granting in part and denying in part** CCA's
18 Motion to Seal (Doc. 319). The Clerk of the Court is directed to file the unredacted
19 versions of: exhibits 3, 4, and 21 to BBK's motion for partial summary judgment (lodged
20 at Doc. 297); BBK's motion to exclude Dr. David Blackburn and exhibits 1-6 thereto
21 (lodged at Doc. 300); and BBK's motion to exclude Dr. Tülim Erdem and exhibits 3, 6,
22 and 7 thereto (lodged at Doc. 303), under seal. **IT IS FURTHER ORDERED striking**
23 exhibit 21 to BBK's motion for partial summary judgment (Doc. 293-30) from the record.
24 **IT IS FURTHER ORDERED** directing BBK to file, by **Monday, July 18, 2022**, an
25 amended version of Steven Bobzin's deposition transcript (exhibit 21 to its motion for
26 partial summary judgment), that reflects the proper redactions in light of this Order.

27 **IT IS FURTHER ORDERED granting in part and denying in part as moot**
28 CCA's Motion to Seal (Doc. 339). The Clerk of the Court is directed to file the unredacted

1 versions of: CCA's opposition to BBK's motion to exclude Khurshid Kohja (lodged at
2 Doc. 342); CCA's opposition to BBK's motion to exclude Dr. David Blackburn and
3 attached exhibits A, B, and C (lodged at Doc. 340); and CCA's opposition to BBK's
4 motions to exclude Dr. Elisabeth Honka and Dr. Tülim Erdem and attached exhibits B
5 and I (lodged at Doc. 341), under seal. **IT IS FURTHER ORDERED striking** from the
6 record: CCA's opposition to BBK's motions to exclude Dr. Elisabeth Honka and Dr.
7 Erdem and all attached exhibits (Doc. 337); and CCA's opposition to BBK's motion to
8 exclude Khurshid Kohja and all attached exhibits (Doc. 338). **IT IS FURTHER**
9 **ORDERED** directing CCA to publicly file, by **Monday, July 18, 2022**, amended versions
10 of these documents, along with all attached exhibits, that reflect the proper redactions in
11 light of this Order and CCA's prior filings (Docs. 362, 375).

12 **IT IS FURTHER ORDERED granting in part and denying in part as moot**
13 CCA's Motion to Seal (Doc. 343.) The Clerk of the Court is directed to file the
14 unredacted versions of: BBK's opposition to CCA's motion to exclude Dr. On Amir
15 (lodged at Doc. 330); BBK's opposition to CCA's motion to exclude Dr. Jeffrey Stec and
16 attached exhibit A (lodged at Doc. 327); and BBK's opposition to CCA's motion to
17 exclude Francis Burns and attached exhibits A and C (lodged at Doc. 324), under seal.
18 **IT IS FURTHER ORDERED striking** from the record: BBK's opposition to CCA's
19 motion to exclude Dr. Amir and all attached exhibits (Doc. 328); BBK's opposition to
20 CCA's motion to exclude Dr. Burns and all attached exhibits (Doc. 322); and BBK's
21 opposition to CCA's motion to exclude Dr. Stec and all attached exhibits (Doc. 325). **IT**
22 **IS FURTHER ORDERED** directing BBK to publicly file, by **Monday, July 18, 2022**,
23 amended versions of these documents, along with all attached exhibits, that reflect the
24 proper redactions in light of this Order and CCA's voluntary withdrawals (Doc. 374).

25 **IT IS FURTHER ORDERED granting in part and denying in part as moot**
26 CCA's Motion to Seal (Doc. 357). The Clerk of the Court is directed to file the
27 unredacted versions of: CCA's reply in support of its motion to exclude Dr. Jeffrey Stec
28 (lodged at Doc. 360); CCA's reply in support of its motion to exclude Dr. On Amir

1 (lodged at Doc. 359); and CCA's reply in support of its motion to exclude Francis Burns
2 (lodged at Doc. 358), under seal. **IT IS FURTHER ORDERED striking** CCA's reply in
3 support of its motion to exclude Dr. On Amir (Doc. 354) from the record. **IT IS**
4 **FURTHER ORDERED** directing CCA to publicly file, by **Monday, July 18, 2022**, an
5 amended version of its reply in support of its motion to exclude Dr. On Amir, that
6 reflects the proper redactions in light of this Order and CCA's prior filings (Doc. 362).

7 **IT IS FURTHER ORDERED granting** CCA's Motion to Seal (Doc. 361). The
8 Clerk of the Court is directed to file the unredacted version of BBK's reply in support of
9 its motion to exclude Dr. Blackburn (lodged at Doc. 346) under seal.

10 **IT IS FURTHER ORDERED granting** CCA's Motion for Leave to File Amended
11 Documents in Connection with a Partial Withdrawal of its Motions to Seal (Doc. 362).
12 The Clerk of Court is directed not to file, however, the documents attached to CCA's
13 motion (lodged at Doc. 363). CCA is instead directed to file amended documents as set
14 forth in this Order.

15 **IT IS FURTHER ORDERED granting** CCA's Motion to Seal (Doc. 365). The
16 Clerk of the Court is directed to file the unredacted version of CCA's opposition to
17 BBK's motion for partial summary judgment and the attached exhibits (lodged at Doc.
18 366) under seal.

19 **IT IS FURTHER ORDERED granting** BBK's Motion to Seal (Doc. 370).

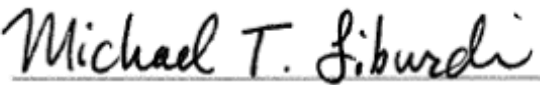
20 **IT IS FURTHER ORDERED granting in part and denying in part** CCA's
21 Motion to Seal (Doc. 381). The Clerk of the Court is directed to file the unredacted
22 version of BBK's reply in support of its motion for partial summary judgment (lodged at
23 Doc. 378) under seal. **IT IS FURTHER ORDERED striking** BBK's reply in support
24 of its motion for partial summary judgment (Doc. 377) from the record. **IT IS**
25 **FURTHER ORDERED** directing BBK to publicly file, by **Monday, July 18, 2022**, an
26 amended version of its reply in support of its motion for partial summary judgment, that
27 reflects the proper redactions in light of this Order.

28 **IT IS FINALLY ORDERED granting** CCA's Motion to Seal (Doc. 402). The

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Clerk of the Court is directed to file the unredacted version of exhibit 128 to CCA's motion for partial summary judgment (lodged at Doc. 403) under seal.

Dated this 13th day of July, 2022.



Michael T. Liburdi
United States District Judge