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3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6

7 BIG BABOON, INC.,
8 Plaintiff,

9 v.

10 SAP AMERICA, INC., et al.,
11 Defendants.

Case No. 17-cv-02082-HSG

**ORDER GRANTING
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL**

Re: Dkt. No. 112

12
13 Pending before the Court is Defendant SAP America's administrative motion to file under
14 seal documents related to its motion to compel discovery in aid of judgment. Dkt. No. 112. The
15 Court **GRANTS** the motion for the reasons described below.

16 **I. LEGAL STANDARD**

17 Courts generally apply a "compelling reasons" standard when considering motions to seal
18 documents. *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 678 (9th Cir. 2010) (quoting *Kamakana*
19 *v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006)). "This standard derives from the
20 common law right 'to inspect and copy public records and documents, including judicial records
21 and documents.'" *Id.* (quoting *Kamakana*, 447 F.3d at 1178). "[A] strong presumption in favor of
22 access is the starting point." *Kamakana*, 447 F.3d at 1178 (quotations omitted). To overcome this
23 strong presumption, the party seeking to seal a judicial record attached to a dispositive motion
24 must "articulate compelling reasons supported by specific factual findings that outweigh the
25 general history of access and the public policies favoring disclosure, such as the public interest in
26 understanding the judicial process" and "significant public events." *Id.* at 1178–79 (quotations
27 omitted). "In general, 'compelling reasons' sufficient to outweigh the public's interest in
28 disclosure and justify sealing court records exist when such 'court files might have become a

1 vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public
2 scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179 (quoting *Nixon v.*
3 *Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). “The mere fact that the production of records
4 may lead to a litigant’s embarrassment, incrimination, or exposure to further litigation will not,
5 without more, compel the court to seal its records.” *Id.*

6 The Court must “balance[] the competing interests of the public and the party who seeks to
7 keep certain judicial records secret. After considering these interests, if the court decides to seal
8 certain judicial records, it must base its decision on a compelling reason and articulate the factual
9 basis for its ruling, without relying on hypothesis or conjecture.” *Id.* Civil Local Rule 79-5
10 supplements the compelling reasons standard set forth in *Kamakana*: the party seeking to file a
11 document or portions of it under seal must “establish[] that the document, or portions thereof, are
12 privileged, protectable as a trade secret or otherwise entitled to protection under the law . . . The
13 request must be narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b).

14 Records attached to nondispositive motions must meet the lower “good cause” standard of
15 Rule 26(c) of the Federal Rules of Civil Procedure, as such records “are often unrelated, or only
16 tangentially related, to the underlying cause of action.” *See Kamakana*, 447 F.3d at 1179–80
17 (quotations omitted). This requires a “particularized showing” that “specific prejudice or harm
18 will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*,
19 307 F.3d 1206, 1210–11 (9th Cir. 2002); *see also* Fed. R. Civ. P. 26(c). “Broad allegations of
20 harm, unsubstantiated by specific examples of articulated reasoning” will not suffice. *Beckman*
21 *Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992) (quotation omitted).

22 II. DISCUSSION

23 Because Defendant’s motion to compel discovery is not a dispositive motion, the Court
24 applies the lower good cause standard.

25 The current sealing request seeks to seal information that contains confidential and
26 sensitive financial information relating to the operations and liabilities of Plaintiff, including
27 account numbers, balance sheets, and copies of checks. *See* Dkt. No. 112-4 at 8; Dkt. No. 112-5.
28 These requests are narrowly tailored to seal only sealable material (the confidential and sensitive

1 financial information), as required by Civil Local Rule 79-5.


2 The Court granted summary judgment in favor of Defendants, and the case was terminated
3 on April 24, 2019. Dkt. No. 86; Dkt. No. 87. Further, the motion to compel discovery in aid of
4 judgment was granted in part and denied in part on June 5, 2020 without reference to the
5 information sought to be sealed. Dkt. No. 120. Thus, these documents are unrelated to the
6 public's understanding of the judicial proceedings in this case, and the public's interest in
7 disclosure of these documents is minimal given that the case and the motion have been resolved.
8 *See In re iPhone Application Litig.*, No. 11-MD-02250-LHK, 2013 WL 12335013, at *2 (N.D.
9 Cal. Nov. 25, 2013) ("The public's interest in accessing these documents is even further
10 diminished in light of the fact that the Court will not have occasion to rule on Plaintiffs' Motion
11 for Class Certification."). Accordingly, because the documents divulge confidential financial
12 information unrelated to the public's understanding of the judicial proceedings in this action, the
13 Court finds that there is good cause to file the documents under seal. *See Economus v. City & Cty.*
14 *of San Francisco*, No. 18-CV-01071-HSG, 2019 WL 1483804, at *9 (N.D. Cal. Apr. 3, 2019)
15 (finding compelling reason to seal because the sealing request divulged sensitive information no
16 longer related to the case); *In re iPhone*, 2013 WL 12335013 (same); *Doe v. City of San Diego*,
17 No. 12-CV-689-MMA-DHB, 2014 WL 1921742, at *4 (S.D. Cal. May 14, 2014) (exhibit's
18 disclosure of personal information and irrelevance to the matter are compelling reasons to seal the
19 exhibit).

20 **III. CONCLUSION**

21 The Court **GRANTS** Defendant's administrative motion to file under seal. Pursuant to
22 Civil Local Rule 79-5(f)(1), documents filed under seal as to which the administrative motion is
23 granted will remain under seal.

24
25 **IT IS SO ORDERED.**

26 Dated: 3/8/2021

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28 HAYWOOD S. GILLIAM, JR.
United States District Judge