

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARISTOCRAT LEISURE LIMITED,

Plaintiff,

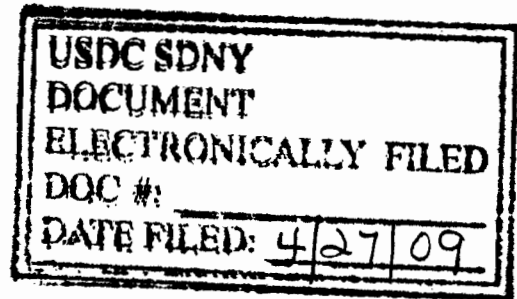
- against -

DEUTSCHE BANK TRUST COMPANY
AMERICAS, as Trustee,

Defendant,

KBC FINANCIAL PRODUCTS UK LTD,
KBC ALPHA MASTER FUND SPC KBC
CONVERTIBLE OPPORTUNITIES
FUND, KBC ALPHA MASTER FUND
SPC KBC MULTI-STRATEGY
ARBITRAGE FUND, KBC ALPHA
MASTER FUND SPC KBC CONVERTIBLE
ARBITRAGE FUND,
AMARANTH LLC,
ALEXANDRA GLOBAL MASTER FUND,
LTD., UFJ INTERNATIONAL PLC,
DEEPHAVEN INTERNATIONAL
CONVERTIBLE TRADING, LTD.,
CALAMOS ADVISORS LLC ON BEHALF
OF CALAMOS GROWTH AND INCOME
FUND, CALAMOS GLOBAL GROWTH
AND INCOME FUND AND CERTAIN
OTHER INSTITUTIONAL CLIENTS,
CQS CONVERTIBLE AND
QUANTITATIVE STRATEGIES
MASTER FUND LTD., D.E. SHAW
INVESTMENT GROUP, LLC, D.E.
SHAW VALENCE INTERNATIONAL,
INC, QVT FUND LP, LEHMAN
BROTHERS INTERNATIONAL
(EUROPE), DEUTSCHE BANK AG,
LONDON BRANCH,

Intervening Defendants.



ORDER

04 Civ. 10014 (PKL)

LEISURE, District Judge:

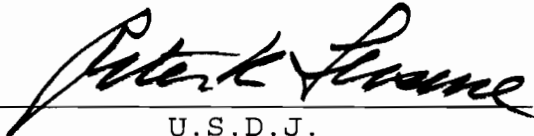
Aristocrat Leisure Limited, the Intervening Defendants, and Deutsche Bank AG, London Branch each moved this Court for summary judgment on the issue of damages. This Court has now decided the motions. In connection with these motions, memoranda of law, statements of material facts pursuant to Local Civil Rule 56.1, and a substantial portion of supporting affidavits and documentation were filed under seal pursuant to a Stipulation and Order Governing Confidential Material, so ordered by this Court on November 22, 2005. However, by submitting this information to the Court in support of, or in opposition to, their respective motions for summary judgment, these documents are now considered judicial documents, and are presumptively available to the public. Lugosch v. Pyramid Co. of Onondoga, 435 F.3d 110, 123 (2d Cir. 2006) (holding as a matter of law that documents submitted to the court in connection with summary judgment are unquestionably judicial documents under the common law and are therefore entitled to a presumption of public access); Joy v. North, 692 F.2d 880, 893 (2d Cir. 1982) (finding that "documents used by parties moving for, or opposing, summary judgment should not remain under seal absent the most compelling reasons"). This presumption of access is not impacted by whether the documents were specifically cited in this Court's Opinion and Order resolving the motions for summary judgment

since "once those submissions come to the attention of the district judge, they can fairly be assumed to play a role in the court's deliberations." Lugosch, 435 F.3d at 123 (internal quotations and citations omitted).

Accordingly, the parties have seven (7) days from the date of this Order to demonstrate why this Court should not unseal (i) the Opinion and Order resolving the summary judgment motions, and (ii) the summary judgment record upon which this Court ruled, including all memoranda of law, Rule 56.1 statements, and affidavits. Any submissions made in response to this Order must explain the countervailing factors that warrant keeping a specific document, or portion thereof, under seal. See United States v. Amodio, 71 F.3d 1044, 1050 (2d Cir. 1995) (explaining that countervailing factors, such as the danger of impairing law enforcement or judicial efficiencies, and the privacy interests of those resisting disclosure, must be balanced against the presumption of access). Absent the requisite showing, after seven (7) days this Court will unseal (i) the Opinion and Order resolving the summary judgment motions on damages, and (ii) the entire summary judgment record.

SO ORDERED.

New York, New York
April 27th, 2009


U.S.D.J.

Copies of this Order have been e-mailed to:

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