

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE:

EX PARTE APPLICATION UNDER 28
U.S.C. SECTION 1782 TO TAKE
DISCOVERY FROM THE CLEARING
HOUSE PAYMENTS COMPANY L.L.C.,
THE FEDERAL RESERVE BANK OF
NEW YORK

Case No. 1:20-MC-00203

PROPOSED CONFIDENTIALITY ORDER

WHEREAS Applicants Sylvia Benedek Klein (“Sylvia”) and Eliane Benedek Segal (“Eliane”) (together, the “Applicants”) filed an application for discovery pursuant to 28 U.S.C. § 1782 Application on January 14, 2021, by which they seek discovery in aid of proceedings they have commenced in the courts of Brazil (such proceedings, the “Brazilian Proceedings”) and included the name “Alexandre R. Nobre” and “Alexandre Nobre” (collectively, the “Nobre Aliases”) as an alias for Alexandre Roberto Benedek (“Mr. Benedek”);

IN RE: EX PARTE APPLICATION UNDER 28 U.S.C. §1782, THE FEDERAL RESERVE BANK OF NEW YORK, Doc. 19
WHEREAS the Federal Reserve Bank of New York, the Clearing House Payments Company L.L.C., Charles Schwab & Co., Inc., Morgan Stanley & Co. LLC, Citibank N.A., Raymond James Financial Services, Inc., Sun Life Financial (U.S.) Services Company, Inc., and Bank Leumi USA (together, the “Discovery Subjects”) may possess information relating to Alexandre Nobre (“Mr. Nobre”), a Brazilian resident not related or otherwise connected to Mr. Benedek and information about whom is not relevant to the Brazilian Proceedings;

WHEREAS Applicants do not seek documents or information concerning Mr. Nobre, provided such documents or information are *not* related to Mr. Benedek;

WHEREAS Applicants have provided to the Discovery Subjects relevant identifying information for Mr. Benedek to assist the Discovery Subjects in avoiding the inadvertent production of any information related to Mr. Nobre;

WHEREAS there nevertheless exists a possibility that documents that are related to Mr. Nobre and that are unrelated to Mr. Benedek, to the Nobre Aliases, or to the underlying disputes in Brazil (the “Brazilian Proceedings”) may be produced by the Discovery Subjects and provided to Applicants;

IT IS HEREBY stipulated and made an Order of the Court that the Applicants shall follow the procedures set forth below with respect to certain documents produced by the Discovery Subjects.

A. Scope

1. This Order shall govern all documents produced by the Discovery Subjects which are responsive to the search terms “Alexandre R. Nobre” or “Alexandre Nobre” included in the Applicants’ subpoenas (collectively, the “Nobre Documents”);

B. Confidential Information

1. After receiving any Nobre Documents from the Discovery Subjects, counsel for the Applicants agree to designate them as “Confidential - Attorneys’ Eyes Only” and to provide a copy thereof to counsel for Mr. Nobre within a period of 14 calendar days.

2. Documents shall be designated by marking or stamping each page of any such document as “Confidential - Attorneys’ Eyes Only.”

3. Counsel for Mr. Nobre agree to review the Nobre Documents within a period of 14 calendar days after receiving them, and to maintain the “Confidential - Attorneys’ Eyes Only”

designation for only those Nobre Documents which they have determined in good faith are related to Mr. Nobre and which are not related to Mr. Benedek. .

4. If counsel for Mr. Nobre do not designate any of the Nobre Documents within 14 calendar days after receiving them, counsel for the Applicants may remove the “Confidential - Attorneys’ Eyes Only” designation from the documents.

5. If counsel for Mr. Nobre and for the Applicants disagree over whether a document is related to Mr. Nobre or to Mr. Benedek and the Brazilian Proceedings, counsel for Mr. Nobre and the Applicants agree to meet and confer in good faith to resolve their differences and to present to the Court any disputes they are unable to amicably resolve. With regard to any documents designated as “Confidential – Attorneys’ Eyes Only” to be filed with the Court, Counsel for Mr. Nobre and Mr. Benedek shall file these documents under seal, in accordance with the individual rules of practice of Judge P. Kevin Castel, as described in Section C.2 of this Confidentiality Order.

C. Treatment of Confidential Information

1. Except as otherwise provided in this Order or subsequent court rulings, documents designated as “Confidential – Attorneys’ Eyes Only” shall not be disclosed to anyone other than undersigned counsel for the Applicants, counsel for Mr. Nobre, or this Court, in the event that Applicants and Nobre have a dispute over a designation. For the avoidance of doubt, documents designated as “Confidential – Attorneys’ Eyes Only” shall not be proffered as evidence or otherwise used in the Brazilian Proceedings.

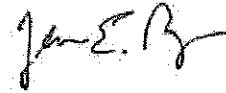
2. Notwithstanding any other provision, no document may be filed with the Clerk under seal without a further Order of this Court addressing the specific documents or portions of documents to be sealed. Any application to seal shall be accompanied by an affidavit or affidavits and a memorandum of law, demonstrating that the standards for sealing have been met and

specifically addressing the applicability of *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-120 (2d Cir. 2006) and any other controlling authority. Unless otherwise ordered, a party seeking to file an opposing party's confidential information shall so advise the opposing party fourteen (14) days in advance specifying the precise portion of the information the party seeks to use, the general purpose thereof and any redactions to which the party does not object. Within seven (7) days thereafter, the party whose confidential information is sought to be used may make an application to seal in accordance with the first paragraph of this Order, indicating the portion or portions of the information it seeks to have sealed. Nothing herein is intended to alter or modify the applicability of Rule 5.2, Fed. R. Civ. P., to this case. The redactions expressly authorized by Rule 5.2 may be made without further application to the Court.

Stipulated to and Agreed to by:

June 1, 2021

Date



Counsel for Mr. Nobre

June 7, 2021

Date

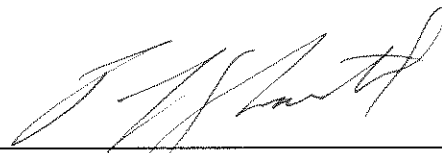


Counsel for Applicants

It is so ORDERED.

Date

6-8-21



The Honorable P. Kevin Castel
United States District Judge