

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION**

Civil Action No. 6:19-cv-01112-BHH

In re Receiver for Scott A. Kohn, Future,  
Income Payments, LLC, Joseph P. Hipp, Kraig  
S. Aiken, and David N. Kenneally,

**REDACTED MOTION TO SEAL AND  
MEMORANDUM IN SUPPORT**

Comes now movant, [REDACTED] (“Movant”) by and through his undersigned counsel and respectfully requests the leave of this Court for leave to file a motion under seal in accordance with Local Crim. Rule 49.01(B) (D.S.C.).

Pursuant to Local Crim. Rule 49.01(B)(1)(a), the documents which the Movant wishes to file under seal is a Consent Motion and a Consent Order. Pursuant to Local Crim. Rule 49.01(B)(1)(b) the Movant seeks to file the motion under seal because public disclosure of the motion would itself lead to disclosure of matters occurring before the grand jury which are protected by Rule 6(e), and otherwise unnecessarily violate the Movant’s privacy interests.

Local Crim. Rule 40.01(B)(1)(d) requires Movant’s counsel to address the factors governing the sealing of documents reflected in controlling case law. The Fourth Circuit held in *Ashcraft v. Conoco*, 218 F.3d 288 (4th Cir. 1984) that 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* at 302. (interior cites omitted).

The Movant certifies the document it seeks to seal meets the factors for sealing documents set out by the Fourth Circuit in *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000), and *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir.1984.)

Specifically:

1. Public notice of the request to seal and opportunity to object is afforded by virtue of this publicly filed motion.

2. No reasonable alternative exists to sealing the aforementioned motion.

3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. See *In re U.S. for an Order Pursuant to 18 U.S.C. Section 2703(D)*, 707

F.3d 283, 294 (4th Cir. 2013) (affirming magistrate judge’s finding that “sealed documents at issue

set forth sensitive nonpublic facts, including the identity of targets and witnesses in an ongoing

criminal investigation”); see also *Casa De Maryland, Inc. v. U.S. De’t of Homeland Sec.*, 409 F.

App’x 697, 700 (4th Cir. 2011) (recognizing that third-party suspects “have a substantial interest

in the nondisclosure of their identities and their connection with particular investigations because

of the potential for future harassment, annoyance, or embarrassment”); *In re Application of the*

*U.S. for an Order Pursuant to 18 U.S.C. sec. 2703(d)*, 830 F. Supp. 2d 114, 151 (E.D. Va. 2011)

(upholding magistrate judge’s finding that the sealing order at issue involved “a variety of interests

sufficient to justify secrecy under the common law right of access,” such as “the integrity of the

investigation” and “preventing unnecessary exposure of those who may be under investigation but

are later exonerated”); *Freeman v. U.S. Dep’t of Justice*, 723 F. Supp. 1115, 1125 (D. Md. 1988) (recognizing that “[c]ourts have also held that the public disclosure of even the fact of being mentioned in a criminal investigatory file creates a stigma for the innocent individual, and that this privacy interest outweighs the public interest in disclosure”).

Accordingly, Movant respectfully requests that this Court grant him leave to file under seal the aforementioned motion and order . Counsel has consulted with Assistant United States Attorney William Watkins (“AUSA Watkins”), and counsel for the Receiver and neither has any objection to this request. The motion to be filed under seal have been submitted to the Court, to the Receiver and to the Government.

Pursuant to Local Crim. Rule 49.01(B)(2)(b), counsel hereby certifies that they have complied with Local Crim. Rule 49.01(B). Counsel is providing the Court’s chambers pursuant to Local Crim. Rule 49.01(B)(3) “Confidential Information to be Submitted to Court in Connection with Motion to Seal.”

Respectfully submitted,

s/ Andrew A. Mathias

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