

1 **ORDR**

2 **DISTRICT COURT**

3 **CLARK COUNTY, NEVADA**

4 **CARY KATZ, an individual,**

Case No. A-18-773251-C

Dept. No. XXII

5 **Plaintiff,**

6 **Vs.**

7 **CRTV LLC, a Delaware limited liability**
8 **company,**

9 **Defendant.**

10 **MARK STEYN, an individual; MARK**
11 **STEYN ENTERPRISES, INC., a New**
12 **Hampshire Corporation; and OAKHILL**
13 **MEDIA, INC., a Vermont Corporation,**

14 **Plaintiffs-in-Intervention,**

15 **Vs.**

16 **CARY KATZ, an individual; and CRTV**
17 **LLC, a Delaware limited liability company,**

18 **Defendants-in-Intervention.**

19 **ORDER RE: PLAINTIFF/DEFENDANT-IN-INTERVENTION CARY KATZ' MOTION TO**
20 **SEAL EXHIBIT B TO HIS OPPOSITION TO PLAINTIFFS-IN-INTERVENTION'S**
21 **MOTION TO VACATE CONFESSION OF JUDGMENT ON ORDER SHORTENING TIME**

22 This matter concerning Plaintiff/Defendant-in-Intervention CARY KATZ' Motion to Seal
23 Exhibit B to his Opposition to Plaintiffs-in-Intervention's Motion to Vacate the Confession of
24 Judgment on Order Shortening Time filed July 17, 2018 came on for hearing on the 26th day of July
25 2018 at the hour of 9:00 a.m. before Department XXII of the Eighth Judicial District Court, in and
26 for Clark County, Nevada, with JUDGE SUSAN H. JOHNSON presiding; Plaintiff/Defendant-in-
27 Intervention CARY KATZ appeared by and through his attorney, STEPHANIE J. SMITH, ESQ. of
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1 the law firm, MORAN BRANDON BENDAVID MORAN; Defendant CRTV, LLC appeared by
2 and through its attorney, ERIKA PIKE TURNER, ESQ. of the law firm, GARMAN TURNER
3 GORDON; and Plaintiffs-in-Intervention, MARY STEYN, MARK STEYN ENTERPRISES, INC.
4 and OAKHILL MEDIA, INC. appeared by and through their attorney, SCOTT D. FLEMING, ESQ.
5 of the law firm, KOLESAR & LEATHAM. Having reviewed the papers and pleadings on file
6 herein, heard oral arguments of counsel, taken this matter under advisement, and found good cause
7 therefore,
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9 MR. KATZ moves this Court to seal Exhibit B of his Opposition to Plaintiffs-in-
10 Intervention's Motion to Vacate Confession of Judgment filed July 13, 2018. Exhibit B consists of
11 pages 245, 511-512 and 518 of a transcript of Arbitration Proceeding held October 17, 2017 in
12 Williston, Vermont. MR. KATZ moves this Court to seal Exhibit B as he "desires to maintain his
13 privacy and confidential nature of his own financial dealings, and his filing this portion of the
14 transcript under seal would not be for any improper purpose."¹
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16 Generally, the public has a right to inspect and copy judicial records. In re: National
17 Consumer Mortgage, LLC, 512 B.R. 639, 640 (D.C.Nev. 2014), *citing* Kamakana v. City and
18 County of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006). Such records are presumptively publicly
19 accessible. *Id.* Accordingly, a party seeking to seal a judicial record "bears the burden of
20 overcoming this strong presumption." *Id.* Where the situation deals with dispositive motions, the
21 party seeking to seal the record "must articulate compelling reasons supported by specific factual
22 findings that outweigh the general history of access and the public policies favoring disclosure such
23 as the public interest in understanding the judicial process." *Id.*, *quoting* Kamakana, 447 F.3d at
24 1178-1179. Among compelling reasons which may justify the sealing or redaction of a record are
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27 ¹See Affidavit of Stephanie J. Smith, Esq. in support of Motion to Seal Exhibit B in support of Order
28 Shortening Time attached to MR. KATZ'S Motion to Seal Exhibit B to His Opposition to Plaintiffs-in-Intervention's
Motion to Vacate the Confession of Judgment on Order Shortening Time filed July 17, 2018.

1 “when such court files might have become a vehicle for improper purposes, such as the use of
2 records to gratify private spite, promote public scandal, circulate libelous statements, or release trade
3 secrets.” *Id.*, quoting Kamakana, 447 F.3d at 1179. However, avoiding a litigant’s “embarrassment,
4 incrimination, or exposure to further litigation will not, without more, compel the court to seal its
5 records.” *Id.*

6 In this state, the Nevada Rules for Sealing and Redacting Court Records (also referred to as
7 “SRCR”) apply to the sealing or redaction of all court records in civil actions regardless of the
8 record’s physical form or its method of recording.² SRCR’s purpose is to provide a uniform
9 procedure for the sealing and redacting of court records in civil actions. *See* SRCR 1. Its policy is
10 to ensure all court records in civil actions are available to the public except as otherwise provided in
11 the SRCR or by statute. *Id.*

12 This Court may order its files and records, or any part thereof, in a civil action to be sealed or
13 redacted provided it makes and enters written findings the specific sealing or redaction is justified by
14 identified compelling privacy or safety interests that outweigh the public interest in access to the
15 court record. Such findings must include the sealing or redaction:

16 (a) is permitted or required by federal or state law;

17 (b) furthers an order entered under NRCP 12(b) or JCRCP 12(f) or a protective order entered
18 under NRCP 26(c) or JCRCP 26(c);

19 (c) furthers an order entered in accordance with federal or state laws that serve to protect the
20 public health and safety;

21 (d) includes only restricted personal information contained in the court record;

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26 ²With that said, the SRCR does not apply the sealing or redaction of record records under specific statutes, such
27 as NRS Chapters 33 and 179, juvenile cases under NRS Chapters 62 and 63, 123 (rights of husband and wife), 125
28 (dissolution of marriage), 126 (parentage), 127 (adoption), 128 (termination of parental rights, 129 (minors’ disabilities),
130 (child support), 453 (treatment and rehabilitation of addicts), 433, and 433A (admission to mental health
facilities/sealing of records), 433B (provisions relating to children), 435 (retarded persons), and 436 (community
programs for mental health), or to NRS Title 13 (guardianships; conservatorships; trusts).

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(e) is of the confidential terms of a settlement agreement of the parties;

(f) includes medical, mental health or tax records;

(g) is necessary to protect intellectual proprietary or property interests such as trade secrets as defined in NRS 600A.030(5); or

(h) is justified or required by another identified compelling circumstances.

See SRCR 3.

This case arises as a result of alleged non-payment of approximately \$20,000,000 in loans made to CRTV, LLC by MR. KATZ, admittedly “an owner of the company.”³ These parties entered into a confession of judgment which was filed April 26, 2018, just one day after Plaintiffs-in-Intervention MARY STEYN, MARK STEYN ENTERPRISES, INC. and OAKHILL MEDIA, INC. moved the Court to intervene in the matter. Since that time, Plaintiffs-in-Intervention have been permitted to intervene, and they have filed a motion to set aside the confession of judgment. Clearly, as there is now an attempt made to unwind the confession of judgment between the admitted related parties, MR. KATZ, as the movant, must provide this Court “compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure such as the public interest in understanding the judicial process.” *Id.*, quoting Kamakana, 447 F.3d at 1178-1179. In this case, MR. KATZ sets forth as his reason his desire to maintain his privacy and confidential nature of his own financial dealings.

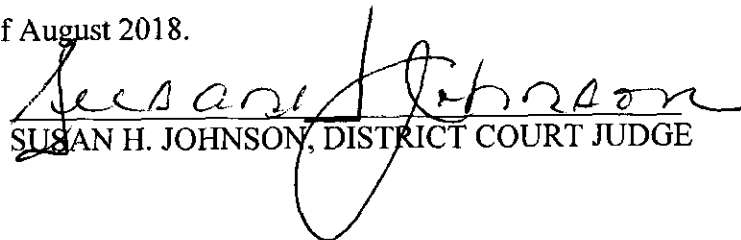
In this Court’s view, MR. KATZ’S desire does not satisfy his burden set forth in SRCR 3; further, and if anything, such information is publicly discussed not only in this case, but in another filed in New York state. MR. KATZ claims in his Complaint filed here CRTV, LLC owes him money. CRTV, LLC confesses it owes MR. KATZ more than \$20,000,000 which needs to be repaid. Within the arbitration proceeding transcript pages MR. KATZ now moves to have sealed, he

³See Complaint filed April 20, 2018, p. 2, paragraph 5.

1 identifies monies he “put...in” as capital, and additional funds he loaned CRTV, albeit in different
2 amounts he claims in the instant litigation. He also identifies amounts paid in as capital or equity by
3 other CRTV, LLC owners, namely his children’s trusts. MR. KATZ has not adequately
4 demonstrated to this Court how such information, if it remains public, can or will be used “to gratify
5 private spite, promote public scandal, circulate libelous statements, or release trade secrets.” *Id.*,
6 quoting Kamakana, 447 F.3d at 1179. In other words, a desire to keep his financial dealings private
7 and confidential does not comport with the required findings of SRCR 3 in order to seal or redact
8 court records. Accordingly,

10 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Plaintiff/Defendant-in-
11 Intervention CARY KATZ’ Motion to Seal Exhibit B to his Opposition to Plaintiffs-in-
12 Intervention’s Motion to Vacate the Confession of Judgment on Order Shortening Time filed July
13 17, 2018 is denied.

15 DATED this 6th day of August 2018.

16 
17 SUSAN H. JOHNSON, DISTRICT COURT JUDGE

1 CERTIFICATE OF SERVICE

2 I hereby certify, on the 6th day of August 2018, I electronically served (E-served), placed
3 within the attorneys' folders located on the first floor of the Regional Justice Center, or mailed a true
4 and correct copy of the foregoing ORDER RE: PLAINTIFF/DEFENDANT-IN-INTERVENTION
5 CARY KATZ' MOTION TO SEAL EXHIBIT B TO HIS OPPOSITION TO PLAINTIFFS-IN-
6 INTERVENTION'S MOTION TO VACATE CONFESSION OF JUDGMENT ON ORDER
7 SHORTENING TIME to the following counsel of record, and that first-class postage was fully
8 prepaid thereon:
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