

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

BROCK STONE, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

Case No. 1:17-cv-02459-MJG

PLAINTIFFS' CONSENT MOTION TO FILE EXHIBIT UNDER SEAL

Pursuant to Local Rule 105.11 and the Uniform Protective Order and Cross-Use Agreement (“Protective Order”), ECF 11, Plaintiffs respectfully move the Court to place under seal Exhibit 5 to the Golden Declaration accompanying Plaintiffs’ Memorandum in Opposition to Defendants’ Motion to Dismiss or for Summary Judgment and Memorandum in Support of Plaintiffs’ Cross-Motion for Summary Judgment, which Plaintiffs are filing contemporaneously with this Motion. Plaintiffs have conferred with Defendants’ counsel regarding this motion, and Defendants have granted their consent for Plaintiffs to file this document under seal.

The Protective Order requires parties to file under seal any material that they “reasonably believe[] contains confidential information, including personal, proprietary, or sensitive information not generally disclosed to the public.” *Id.* ¶ 2. Local Rule 105.11 further provides that courts may grant motions to seal if the moving party includes “(a) proposed reasons supported by specific factual representations to justify the sealing and (b) an explanation why alternatives to sealing would not provide sufficient protection.” The decision to seal judicial records “is a matter of a district court’s ‘supervisory power,’ and it is one ‘best left to the sound

discretion of the [district] court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case.” *Virginia Dep’t of State Police v. Washington Post*, 386 F.3d 567, 575 (4th Cir. 2004) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598–99, 98 S. Ct. 1306 (1978)).

Sealing is appropriate here. Exhibit 5 to the Golden Declaration contains material produced in response to a *subpoena duces tecum* Plaintiffs served on Representative Vicky Hartzler of the U.S. House of Representatives, the entirety of which has been designated as confidential by Rep. Hartzler’s counsel. Plaintiffs have conferred with Rep. Hartzler’s counsel, who confirmed her position that the materials contained in the Exhibit are properly considered to be confidential and requested that those materials be filed under seal. The materials therefore constitute “confidential information, including personal, proprietary, or sensitive information not generally disclosed to the public” within the meaning of the Protective Order. The Exhibit should not be placed on the public record, and there are no alternatives to sealing that would adequately protect Rep. Hartzler’s interests in the confidentiality of the material contained therein.

Pursuant to Local Rule 105.11, if the Court denies this Motion, Plaintiffs reserve their right to withdraw the sealed material from the docket and secure prompt return of all such materials served upon Defendants. In the interim, Defendants and their counsel should not disclose publicly or use outside of this litigation the sealed Exhibit.

For the above stated reasons, Plaintiffs respectfully request that the Court enter an order sealing Exhibit 5 to the Golden Declaration accompanying Plaintiffs’ Memorandum in Opposition to Defendants’ Motion to Dismiss or for Summary Judgment and Memorandum in Support of Plaintiffs’ Cross-Motion for Summary Judgment. A proposed order is attached.

Dated: May 25, 2018

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of May 2018, a copy of the foregoing Motion to File Exhibit Under Seal was filed via ECF in the United States District Court for the District of Maryland.

/s/ Marianne Kies

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[PROPOSED] ORDER SEALING EXHIBIT

Whereas, on May 25, 2018, Plaintiffs filed a Motion to File Exhibit Under Seal (the “Motion”);

Whereas, in the Motion, Plaintiffs have proposed reasons supported by specific factual representations to justify the requested sealing, in accordance with L.R. 105.11;

Whereas, Plaintiffs have identified the following portion of the record as that portion which is subject to the Motion: Exhibit 5 to the Golden Declaration accompanying Plaintiffs’ Opposition to Defendants’ Motion to Dismiss and for Summary Judgment and Memorandum in Support of Plaintiffs’ Cross-Motion for Summary Judgment (the “Sealed Exhibit”);

Whereas, the Court has considered the Motion and any opposition thereto;

Whereas, the Court has not ruled on the Motion for at least fourteen (14) days after it was entered on the public Court docket to permit the filing of objections by interested parties;

Whereas, the Court has considered any objections by interested parties, pursuant to L.R. 105.11;

Whereas, Plaintiffs have stated in the Motion why alternatives to sealing would not

provide sufficient protection;

Whereas, the Court finds and holds that alternatives to sealing would not provide sufficient protection;

Whereas, the Court finds and holds that sealing of a portion of the record, specified herein, is appropriate;

Accordingly, it is on this ___ day of _____ 2018 by the United States District Court for the District of Maryland, **ORDERED:**

1. That Plaintiffs' Motion to File Exhibit Under Seal be, and the same hereby is, GRANTED, as specifically set forth herein;

2. That the Sealed Exhibit (as defined above) be, and the same hereby is, PLACED UNDER SEAL by the Clerk of the Court and that the Sealed Exhibit shall be placed in an envelope or other container that is marked SEALED, SUBJECT TO ORDER OF COURT DATED _____.

3. A copy of this Order shall be distributed to all counsel of record and to any other person entitled to notice hereof, and shall be docketed in the Court file.

4. No party or their counsel shall make public or otherwise disclose the Sealed Exhibit to any person or entity not directly associated with this litigation.

HON. MARVIN J. GARBIS
UNITED STATES DISTRICT JUDGE