UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. GOPALA KRISHNAN, MANIVANNAN SHANMUGAM, SAKTHIVEL PALANI GOUNDER, NANBAN VENTURES LLC, GSM ETERNAL LLC (A/K/A NORTHSTARS FINTECH), HIMALAYAN FINTECH LLC, and CENTUM FINTECH LLC (A/K/A SUNSHINES FINTECH). Defendants,	FILED UNDER SEAL C.A. No.: 4:23-cv-885 SDJ Jury Trial Demanded

PLAINTIFF'S *EX PARTE* MOTION TO TEMPORARILY SEAL DOCKET AND PROCEEDINGS AND BRIEF IN SUPPORT

In accordance with Local Rule CV-5(a)(7)(B), Plaintiff Securities and Exchange Commission ("SEC") moves for an order temporarily sealing the docket, proceedings, pleadings, and orders issued in this matter and all other filings herein until the earlier of 5:00 p.m. on October 18, 2023, the filing of executed returns of service or waiver of service forms as to the Defendants, or notification from the SEC that one or more of the Defendants have sufficient notice of these proceedings.

MOTION TO SEAL

The SEC has good cause for making this request. The SEC is filing this case to stop an ongoing fraud. The SEC is seeking—*ex parte* and on an emergency basis—a temporary restraining order, preliminary injunction, and asset freeze to halt ongoing violations of the securities laws and protect the possibility of recovering investor funds obtained illegally in a fraudulent securities scheme perpetrated by Defendants Gopala Krishnan, Manivannan Shanmugam, Sakthivel Palani Gounder, Nanban Ventures LLC, GSM Eternal LLC (A/K/A Northstars FinTech), Himalayan Fintech LLC, and Centum Fintech LLC (A/K/A Sunshines FinTech) (collectively, “Defendants”).

As alleged in the Complaint and shown in the SEC's Emergency *Ex Parte* Motion for Temporary Restraining Order, Prelminary Injunction, Asset Freeze and Other Ancillary Emergency Relief and supporting evidentiary Appendix, Defendants have been engaged in an ongoing fraud scheme since at least 2021. By engaging in the fraudulent conduct, Defendants violated, and are violating, multiple provisions of the federal securities laws, including, but not limited to, Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, and with respect to certain Defendants, Sections 206(1), 206(2), 206(3), and 206(4) of the Investment Advisers Act of 1940 and Rules 206(4)-8 thereunder.

As the fraud is ongoing, and investors' funds remain at risk of being misappropriated, the SEC seeks emergency *ex parte* relief in this action to enjoin violations of the federal securities laws, freeze assets, and obtain other equitable relief. The SEC's past experience is that persons who violate the federal securities laws often dissipate, waste, and/or conceal investor assets when they are made aware of an SEC enforcement action. Such conduct makes it much more difficult, if not impossible, for the SEC to secure appropriate relief in the public interest in the enforcement proceeding. Based on this experience, the SEC is concerned that the Defendants, once they become aware of this lawsuit, will withdraw or spend assets, transfer them to third parties, or otherwise seek to improperly conceal or shield them. For these reasons, the SEC has not notified the adverse parties of its intention to seek the emergency relief requested.

To aid in the marshaling and conserving of Defendants' assets and to aid in preserving the status quo, the SEC moves this Court for an order to temporarily seal the filing of this proceeding, the Complaint, and all other motions, briefs, appendices, orders, and other collateral papers filed in this matter until the earlier of (a) the filing of executed returns of service or waiver of service forms as to one or more Defendants; (b) the SEC filing a Notice of Status with the Clerk of Court, stating that one or more of the Defendants has learned of this proceeding, at which point continuation of a sealing order would be futile and would unnecessarily prevent potential victims from receiving notice and warning of the Defendants' scheme; or (c) if neither of the above has yet occurred, 5:00 p.m., October 18, 2023.

A seal under these circumstances is necessary and in the public interest for several reasons. In this era of widespread and instantaneous electronic information and internet access, and electronic filing of court documents, it is possible that the Defendants could learn of the Court's orders prior to being served. They could then take steps to frustrate the purpose of the orders, permanently damaging or altering the status quo. Sealing the files until Defendants may be found and served, or otherwise have notice of the proceeding is an important measure to preserve the status quo until the Court can make an ultimate determination.

MEMORANDUM OF LAW

A court possesses inherent power to seal part or all of its records. *See*, *e.g.*, *United States v. McVeigh*, 119 F.3d 806, 811 (10th Cir. 1997) (stating that court records "may be sealed if the right to access is outweighed by interests favoring non-disclosure"). In ruling on a motion for leave to file under seal, courts employ a balancing test, to determine whether the interests furthered by denying public access (*e.g.*, preventing unfair pretrial publicity, law enforcement purposes, or protecting privacy interests) outweigh the public's interest in inspecting judicial records. *See Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978). Here, the serious law enforcement interests implicated tip the scale heavily in favor of sealing this matter for the very limited period requested.

REQUEST FOR RELIEF

Accordingly, the SEC respectfully requests that all pleadings and orders in this matter be sealed until the earlier of one of the following occurring, at which pointed the Clerk shall be ordered to unseal the matter:

1. Executed returns of service or waivers of service as to one or more of the Defendants are filed;
2. The SEC files a Notice of Status stating that, because one or more of the Defendants in the action have sufficient notice of this action, further sealing is unnecessary and the Clerk should unseal the matter, or
3. If neither of the above has yet occurred, the matter shall be unsealed as of 5:00 p.m., October 18, 2023.

Dated October 5, 2023

Respectfully submitted,

/s/ Keefe Bernstein
Keefe Bernstein
Texas Bar No. 24006839
(817) 900-2607
bernsteink@sec.gov

Jason Reinsch
Texas Bar No. 24040120
(817) 900-2601
Reinschj@sec.gov

Samantha Martin
Texas Bar No. 24065090
(817) 978-5035
martins@sec.gov

Clemon Ashley
Illinois Bar No. 6294839
(817) 900-2627
ashleyc@sec.gov

Securities and Exchange Commission
801 Cherry Street, Suite 1900
Fort Worth, TX 76102

Counsel for Plaintiff
Securities and Exchange Commission