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Ainealem "Alex" Gidewon ORDER DENYING PLAINTIFFS' MOTION TO COMPEL AND GRANTING 990 BRADY A VENUE, LLC'S MOTION FOR PROTECTIVE ORDER

John Goger
Fulton County Superior Court

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John Goger, *Ainealem "Alex" Gidewon ORDER DENYING PLAINTIFFS' MOTION TO COMPEL AND GRANTING 990 BRADY A VENUE, LLC'S MOTION FOR PROTECTIVE ORDER*, Georgia Business Court Opinions 463 (2018)

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**IN THE SUPERIOR COURT OF FULTON COUNTY
BUSINESS CASE DIVISION
STATE OF GEORGIA**

AINEALEM "ALEX" GIDEWON, and)	
AG ENTERTAINMENT, INC.,)	
)	CIVIL ACTION FILE NO.:
Plaintiffs,)	2016CV270971
)	
vs.)	
)	Bus. Court, Div. 4
MICHAEL GIDEWON,)	
990 BRADY AVENUE, LLC, and)	
RONALD F. JACOBS,)	
)	
Defendants.)	

**ORDER DENYING PLAINTIFFS' MOTION TO COMPEL AND
GRANTING 990 BRADY AVENUE, LLC'S MOTION FOR PROTECTIVE ORDER**

The above styled matter is before this Court on Plaintiffs Ainealem "Alex" Gidewon and AG Entertainment, Inc.'s (collectively, "Plaintiffs") Motion to Compel and 990 Brady Avenue, LLC's ("990 Brady") Motion for Protective Order.

The foregoing motions relate to post-judgment discovery. With respect to such discovery, O.C.G.A. § 9-11-69 provides:

...In aid of the judgment or execution, the judgment creditor...may...(1) Examine any person, including the judgment debtor by taking depositions or propounding interrogatories; and (2) Compel the production of documents or things...in the manner provided in this chapter for such discovery measures prior to judgment.

See also Hickey v. RREF BB SBL Acquisitions, LLC, 336 Ga. App. 411, 415, 785 S.E.2d 72, 76 (2016) ("O.C.G.A. § 9-11-69(2), which allows the judgment debtor to compel the production of documents, is not limited to documents in the possession of the judgment debtor") (citing In re Callaway, 212 Ga. App. 500, 501, 442 S.E.2d 309 (1994)).

The purpose of post-judgment discovery is to aid a litigant to recover on a liability which has been established by a judgment and, thus, “any question that seeks information which would lead to *any property or holdings of the defendant in fi. fa.* which are subject to levy to satisfy the judgment...is pertinent and allowable.” Esasky v. Forrest, 231 Ga. App. 488, 490, 499 S.E.2d 413, 415 (1995) (emphasis added) (citing Bradley v. Coach & Six Restaurants, 112 Ga. App. 278, 280 (2)(a), 145 S.E.2d 55). *See* Fleming v. Busey, 153 Ga. App. 489, 489, 265 S.E.2d 839, 840 (1980) (“Any question which would lead to *any property or sources of income* of the judgment debtor is pertinent and allowable”) (emphasis added). A trial court “has wide discretion in the entering of orders permitting or preventing the use of discovery which is oppressive, unreasonable, unduly burdensome or expensive...or directed to wholly irrelevant and immaterial or privileged matters...” Sechler Family P'ship v. Prime Grp., Inc., 255 Ga. App. 854, 857, 567 S.E.2d 24, 27 (2002) (citing Young v. Jones, 149 Ga. App. 819, 824(4), 256 S.E.2d 58 (1979)).

In the case at bar, this Court issued a Final Judgment on Sept. 13, 2017 in favor of Plaintiffs and against Michael Gidewon in the amount of \$251,593.74. Plaintiffs sought post-judgment discovery regarding Gidewon’s property, assets, and sources of income to obtain satisfaction of the judgment. In this regard, Plaintiffs served 990 Brady with a Civil Subpoena for Deposition. Plaintiffs sought copies of “any and all agreements for lease of what was formally known as the VIP room for Compound at 990 Brady Avenue . . . which were entered into at any time period beginning January 1, 2016 through the present.” 990 Brady objected to Plaintiffs’ request, but nonetheless produced a redacted copy of a “Standard Commercial/Industrial Lease” entered on February 21, 2017, between 990 Brady and KEMG Inc. (“KEMG Lease”). It appears that certain provisions have been redacted related to the length of the lease term and certain financial terms, including the amount of the monthly rent and the

amount of the Security Deposit. The Subpoena also sought the production of “copies of any and all payments for or relating to rent payments and security deposits for the leasing of what was formally known as the VIP room for Compound at 990 Brady Avenue, Atlanta, Georgia.” Notwithstanding the redactions of the KEMG Lease, 990 Brady produced unredacted copies of rent checks in response to the Subpoena.

In the instant Motion to Compel, Plaintiffs request an unredacted copy of the KEMG Lease. Plaintiffs assert the unredacted KEMG Lease is discoverable for the purposes of determining if it “somehow provides [Michael Gidewon with] any property interest [in the 990 Brady property], asset, or source of income” from which the Plaintiffs may satisfy their judgment. The parties engaged in good-faith discussions under Uniform Superior Court Rule 6.4 but were ultimately unsuccessful in reaching a resolution. 990 Brady refused to produce the unredacted copy of the KEMG Lease and filed the instant Motion for Protective Order. Plaintiffs responded to the Motion for Protective Order and filed the instant Motion to Compel.

KEMG Inc. objects to the production of an unredacted copy of the KEMG Lease and has requested that 990 Brady not produce the unredacted copy. Christopher Berry, KEMG Inc.’s Chief Executive Officer, avers that the “portions of the lease that were redacted are the financial terms and length of the lease.” According to Berry, Plaintiff AG Entertainment, Inc. is KEMG Inc.’s “biggest competitor” and it and/or its affiliated companies “have been repeatedly putting in purchase offers on [the] property that KEMG Inc. is currently leasing.”¹ Given these attempts, Berry asserts releasing the confidential, financial terms of the KEMG Lease would “cause great harm” to KEMG Inc.² Berry further avers that Michael Gidewon does not have an ownership

¹ Christopher Berry Aff., ¶¶ 3, 6.

² Id.

interest in KEMG Inc., is only employed as a part-time manager, and is not a party to the KEMG Lease.³

990 Brady asserts that insofar as Plaintiffs and KEMG Inc. are direct competitors interested in the same leased property, disclosure of the redacted lease terms would provide Plaintiffs an unfair business advantage. Moreover, insofar as Michael Gidewon is not a party to the lease, does not own any equity in 990 Brady or KEMG Inc., and does not pay the KEMG Lease or receive its proceeds, the lease proceeds cannot be attached to satisfy Gidewon's debt and, thus, the redacted lease terms have no relevance to this action.

The Court agrees no showing has been made that the redacted KEMG Lease terms are reasonably calculated to "lead to any property or holdings of" the judgment debtor, Michael Gidewon. Esasky, 231 Ga. App. at 490; Bradley, 112 Ga. App. at 280(2)(a). While Gidewon is employed by KEMG Inc., he is not a party to the KEMG Lease and his name does not appear on any of the rent checks produced by 990 Brady. Plaintiffs have not made any showing supporting an allegation that any of the parties to the KEMG Lease are "receiving proceeds from the judgment debtor's accounts or any other transfer of assets." Tempco Elec. Heater Corp. v. Temperature Eng'g Co., 2005 WL 8155356, at *2 (N.D. Ga. Mar. 25, 2005) (finding that post-judgment discovery requests are appropriate where there is evidence raising questions as to the relationship between defendant and certain entities allegedly "created for the purpose of transferring assets away from the judgment debtor[']").

In short, aside from Gidewon's part time employment, nothing has been presented to the Court that would connect Gidewon to KEMG Inc.'s assets or to the KEMG Lease. Given Christopher Berry's affirmative representations that the redacted financial terms and lease term

³ Id. at ¶5. In correspondence from its counsel, KEMG Inc. has taken the position that, insofar as Gidewon is only an employee and is not a principle or owner, Plaintiffs should only be entitled to a wage garnishment due to their judgment. See 990 Brady Avenue, LLC's Brief in Support of Motion for Protective Order, Exs. C and D.

are confidential information and that disclosure of such information to Plaintiffs would “cause great harm to KEMG Inc.” in light of their ongoing competing businesses and, specifically, their competition for the leased space, based on the existing record the Court finds a protective order is appropriate. *See* O.C.G.A. §9-11-26(c)(7); Sechler Family P'ship, 255 Ga. App. at 857.

Given all of the above, Plaintiffs’ Motion to Compel is hereby DENIED and 990 Brady’s Motion for Protective Order is GRANTED.

IT IS SO ORDERED this 12 day of October, 2018.


 JUDGE JOHN J. GOGER
 Metro Atlanta Business Case Division
 Fulton County Superior Court
 Atlanta Judicial Circuit

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