

1/21/2019

Chief Judge R. Kimball Mosier
Courtroom 369
Frank E. Moss, U.S. Courthouse
350 S Main Street,
Salt Lake City, Utah 84101

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FILED* US Bankruptcy Court-UT
JAN 23 2019 AM 10:14

Re: Object to Evergreen Air and Space Museum's, TFEC pacer 266, "ex parte motion for leave to file certain confidential agreements under seal."

Chief Judge R. Kimball Mosier,

I am an investor in The Falls Event Center (TFEC), and I am writing to object to Evergreen Air and Space Museum's, TFEC pacer 266, "ex parte motion for leave to file certain confidential agreements under seal."

"The First Amendment grants every member of the public a presumptive right of access to court records—a right that forbids the sealing of court records except in the rarest of circumstances. The right of access may only be overcome by an "overriding [governmental interest] based on findings that closure is essential to preserve higher values." A party seeking secrecy must demonstrate both a "high probability" that this interest would be harmed if the documents were disclosed and that "there are no alternatives to closure that would adequately protect the compelling interest."(1)

The Evergreen Air and Space Museum has not shown any convincing reason why the public's presumptive right of access to court records should be denied in this case. The Evergreen Air and Space Museum cite two reasons the record should be sealed. They claim there is a potential of harm to the reputation of the Evergreen Air and Space Museum and TFEC.

The Evergreen Air and Space Museum was involved in a dispute over the payment of property taxes and the improper transfer of funds which resulted in it being audited by the Oregon Department of Justice. The OR DOJ recommended, "substantial changes to the museum's governance and oversight ... including a review of the museum's articles, bylaws, and operations, an overhaul of the executive committee and board, the adoption of a 'whistleblower' protection policy and implementation of budgetary reforms."(2) The museum has in its collection 35 aircraft owned by the United States Government. The Evergreen Air and Space Museum is a nonprofit public benefit corporation which regularly engages in fundraising activity. The warning issued five years ago about the Evergreen Air and Space Museum is just as relevant today, "Charities are subsidized by taxpayers and depend on public trust," (OR Attorney General) Rosenblum's aid. "That trust is shaken when nonprofits stray from their charitable purposes, and when charitable assets are used to benefit affiliated for-profit companies."(3) Therefore beyond the public's presumptive right to access court records, the

public has an interest in the proper oversight of the Evergreen Air and Space Museum which would not be served by sealing these court records.

These documents are currently available on the internet to be seen by anyone who cares to look for them. This means that sealing these documents serves no purpose other than allowing the Evergreen Air and Space Museum to threaten their critics and potential whistleblowers with legal action over the revelation of information that is readily available to the public and should be part of the public record.

In a case where it seems like every week, there is a new outrageous revelation about TFEC and the former management of TFEC. It is hard to believe there is any compelling reason that any documents, in this case, should be sealed. The Evergreen Museum claim's that the debtor could be harmed by these new revelations. Compared to what we have learned so far it is hard to imagine how something could further tarnish the reputation of TFEC. Earlier this month we learned TFEC was accused of lying to brides about their rental deposits. Before that, the bankruptcy judge asked if TFEC was a Ponzi scheme and the TFEC lawyer agreed that it might be. In the depositions we learned TFEC kept two sets of books. The Bankruptcy US Trustee called Steve Down a textbook case of fraud and dishonesty. The SEC claimed Steve lied to investors about TFEC's profitability. It is hard to imagine there something worse that could be discovered about TFEC and its former management. If that document does exist the creditors of TFEC have the right to know the truth.

Thank you for considering my objection to the sealing of the Evergreen Air and Space Museum documents.

Sincerely,



John Blakely, Shareholder TFEC,
8853 N Beach ST #112, Keller, TX 76244

References

- 1> WHEN IT COMES TO SEALING COURT RECORDS, THE PRESUMPTION OF PUBLIC ACCESS REQUIRES THAT YOU "JUST SAY NO", by Senior Attorney Leslie Brueckner and Board Member Beth Terrell, Public Justice
- 2> Evergreen museum has turbulent history, By Nichole Montesano, The News-Register. 8/8/2017
- 3> IRS headaches for Evergreen Air and Space Museum, By Wendy Culverwell, Staff Reporter, Portland Business Journal. 3/20/2014