

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 AI CA LLC,

12 Plaintiff,

Case No.: 3:20-cv-2352-MMA-AHG

13 v.

PROTECTIVE ORDER

14 CREDIAUTOUSA FINANCIAL
15 COMPANY LLC, *et al.*,

16 Defendants.

[ECF No. 14]

17 Before the Court is the parties' Joint Motion for Protective Order. ECF No. 14.
18 Having reviewed the parties' proposed Stipulated Protective Order, the Court **GRANTS**
19 the Motion, except to the extent the proposed order did not comply with chambers rules
20 governing stipulated protective orders. The Court has added its required provisions in more
21 explicit terms in Paragraphs 12 and 26 herein but otherwise enters the following Stipulated
22 Protective Order exactly as submitted by the parties:

23 **PROTECTIVE ORDER**

24 IT IS HEREBY STIPULATED by and between Plaintiff AI CA LLC ("Plaintiff"),
25 Defendant CrediAutoUSA Financial Company LLC ("CrediAuto"), and Defendant
26 Rafael Gomez (collectively, "the parties"), through their respective attorneys of record, as
27 follows:
28

1 Documents and information being sought through discovery in the above-captioned
2 action are, for competitive and privacy reasons, normally kept confidential by the parties.
3 The parties have agreed to be bound by the terms of this Protective Order (“Order”) in this
4 action.

5 The materials to be exchanged throughout the course of the litigation between the
6 parties may contain trade secret or other confidential financial, research, technical, cost,
7 price, marketing or other commercial information, as is contemplated by Federal Rule of
8 Civil Procedure 26(c)(1)(G). The purpose of this Order is to protect the confidentiality of
9 such materials as much as practical during the litigation.

10 THEREFORE, an order of this Court protecting such confidential information is
11 appropriate and shall be and hereby is made on the following terms:

12 DEFINITIONS

13 1. The term “confidential information” will mean and include information
14 contained or disclosed in any materials, including documents, portions of documents,
15 answers to interrogatories, responses to requests for admissions, trial testimony, deposition
16 testimony, and transcripts of trial testimony and depositions, including data, summaries,
17 and compilations derived therefrom that is deemed to be confidential information by any
18 party to which it belongs.

19 2. The term “materials” will include, but is not be limited to: documents;
20 correspondence; memoranda; bulletins; blueprints; specifications; customer lists or other
21 material that identify customers or potential customers; price lists or schedules or other
22 matter identifying pricing; minutes; telegrams; letters; statements; cancelled checks;
23 contracts; invoices; drafts; books of account; worksheets; notes of conversations; desk
24 diaries; appointment books; expense accounts; recordings; photographs; motion pictures;
25 compilations from which information can be obtained and translated into reasonably usable
26 form through detection devices; sketches; drawings; notes (including laboratory notebooks
27 and records); reports; instructions; disclosures; other writings; models and prototypes and
28 other physical objects.

1 inspecting party, the producing party must, within a reasonable time prior to producing
2 those materials to the inspecting party, mark the copies of those materials that contain
3 confidential information with the appropriate confidentiality marking.

4 6. Whenever a deposition taken on behalf of any party involves a disclosure of
5 confidential information of any party:

6 a. the **deposition** or portions of the deposition must be designated as containing
7 confidential information subject to the provisions of this Order; such
8 designation must be made on the record whenever possible, but a party may
9 designate portions of depositions as containing confidential information after
10 transcription of the proceedings; [A] party will have until fourteen (14) days
11 after receipt of the deposition transcript to inform the other party or parties to
12 the action of the portions of the transcript to be designated
13 “CONFIDENTIAL” or “CONFIDENTIAL - FOR COUNSEL ONLY.”

14 b. the disclosing party will have the right to exclude from attendance at the
15 **deposition**, during such time as the confidential information is to be disclosed,
16 any person other than the deponent, counsel (including their staff and
17 associates), the court reporter, and the person(s) agreed upon pursuant to
18 paragraph 8 below; and

19 c. the originals of the deposition transcripts and all copies of the deposition **must**
20 bear the legend “CONFIDENTIAL” or “CONFIDENTIAL - FOR COUNSEL
21 ONLY,” as appropriate, and the original or any copy ultimately presented to
22 a court for filing must not be filed unless it can be accomplished under seal,
23 identified as being subject to this Order, and protected from being opened
24 except by order of this Court.

25 7. All confidential information designated as “CONFIDENTIAL” or
26 “CONFIDENTIAL FOR COUNSEL ONLY” must not be disclosed by the receiving party
27 to anyone other than those persons designated within this order and must be handled in the
28 manner set forth below and, in any event, must not be used for any purpose other than in

1 connection with this litigation, unless and until such designation is removed either by
2 agreement of the parties, or by order of the Court.

3 8. Information designated “CONFIDENTIAL - FOR COUNSEL ONLY” must
4 be viewed only by counsel (as defined in paragraph 3) of the receiving party, and by
5 independent experts under the conditions set forth in this Paragraph. The right of any
6 independent expert to receive any confidential information will be subject to the advance
7 approval of such expert by the producing party or by permission of the Court. The party
8 seeking approval of an independent expert must provide the producing party with the name
9 and curriculum vitae of the proposed independent expert, and an executed copy of the form
10 attached hereto as Exhibit A, in advance of providing any confidential information of the
11 producing party to the expert. Any objection by the producing party to an independent
12 expert receiving confidential information must be made in writing within fourteen (14)
13 days following receipt of the identification of the proposed expert. Confidential
14 information may be disclosed to an independent expert if the fourteen (14) day period has
15 passed and no objection has been made. The approval of independent experts must not be
16 unreasonably withheld.

17 9. Information designated “confidential” must be viewed only by counsel (as
18 defined in paragraph 3) of the receiving party, by independent experts (pursuant to the
19 terms of paragraph 8), by court personnel, and by the additional individuals listed below,
20 provided each such individual has read this Order in advance of disclosure and has agreed
21 in writing to be bound by its terms:

- 22 a. Executives who are required to participate in policy decisions with reference
23 to this action;
- 24 b. Technical personnel of the parties with whom Counsel for the parties find it
25 necessary to consult, in the discretion of such counsel, in preparation for trial
26 of this action; and
- 27 c. Stenographic and clerical employees associated with the individuals identified
28 above.

1 10. With respect to material designated “CONFIDENTIAL” or
2 “CONFIDENTIAL – FOR COUNSEL ONLY,” any person indicated on the face of the
3 document to be its originator, author or a recipient of a copy of the document, may be
4 shown the same.

5 11. All information which has been designated as “CONFIDENTIAL” or
6 “CONFIDENTIAL -FOR COUNSEL ONLY” by the producing or disclosing party, and
7 any and all reproductions of that information, must be retained in the custody of the counsel
8 for the receiving party identified in paragraph 3, except that independent experts authorized
9 to view such information under the terms of this Order may retain custody of copies such
10 as are necessary for their participation in this litigation.

11 12. Before any materials produced in discovery, answers to interrogatories,
12 responses to requests for admissions, deposition transcripts, or other documents which are
13 designated as confidential information are filed with the Court for any purpose, the party
14 seeking to file such material must seek permission of the Court to file the material under
15 seal. No document shall be filed under seal unless counsel secures a court order allowing
16 the filing of a document, or portion thereof, under seal. An application to file a document
17 under seal shall be served on opposing counsel, and on the person or entity that has custody
18 and control of the document, if different from opposing counsel. If opposing counsel, or
19 the person or entity who has custody and control of the document, wishes to oppose the
20 application, they must contact the chambers of the judge who will rule on the application
21 to notify the Court that an opposition to the application will be filed.

22 13. At any stage of these proceedings, any party may object to a designation of
23 the materials as confidential information. The party objecting to confidentiality must
24 notify, in writing, counsel for the designating party of the objected-to materials and the
25 grounds for the objection. If the dispute is not resolved consensually between the parties
26 within seven (7) days of receipt of such a notice of objections, the objecting party may
27 move the Court for a ruling on the objection. The materials at issue must be treated as
28 confidential information, as designated by the designating party, until the Court has ruled

1 on the objection or the matter has been otherwise resolved.

2 14. All confidential information must be held in confidence by those inspecting
3 or receiving it, and must be used only for purposes of this action. Counsel for each party,
4 and each person receiving confidential information must take reasonable precautions to
5 prevent the unauthorized or inadvertent disclosure of such information. If confidential
6 information is disclosed to any person other than a person authorized by this Order, the
7 party responsible for the unauthorized disclosure must immediately bring all pertinent facts
8 relating to the unauthorized disclosure to the attention of the other parties and, without
9 prejudice to any rights and remedies of the other parties, make every effort to prevent
10 further disclosure by the party and by the person(s) receiving the unauthorized disclosure.

11 15. No party will be responsible to another party for disclosure of confidential
12 information under this Order if the information in question is not labeled or otherwise
13 identified as such in accordance with this Order.

14 16. If a party, through inadvertence, produces any confidential information
15 without labeling or marking or otherwise designating it as such in accordance with this
16 Order, the designating party may give written notice to the receiving party that the
17 document or thing produced is deemed confidential information, and that the document or
18 thing produced should be treated as such in accordance with that designation under this
19 Order. The receiving party must treat the materials as confidential, once the designating
20 party so notifies the receiving party. If the receiving party has disclosed the materials before
21 receiving the designation, the receiving party must notify the designating party in writing
22 of each such disclosure. Counsel for the parties will agree on a mutually acceptable manner
23 of labeling or marking the inadvertently produced materials as “CONFIDENTIAL” or
24 “CONFIDENTIAL - FOR COUNSEL ONLY” - SUBJECT TO PROTECTIVE ORDER.

25 17. Nothing within this order will prejudice the right of any party to object to the
26 production of any discovery material on the grounds that the material is protected as
27 privileged or as attorney work product.

28 18. Nothing in this Order will bar counsel from rendering advice to their clients

1 with respect to this litigation and, in the course thereof, relying upon any information
2 designated as confidential information, provided that the contents of the information must
3 not be disclosed.

4 19. This Order will be without prejudice to the right of any party to oppose
5 production of any information for lack of relevance or any other ground other than the mere
6 presence of confidential information. The existence of this Order must not be used by either
7 party as a basis for discovery that is otherwise improper under the Federal Rules of Civil
8 Procedure.

9 20. Nothing within this order will be construed to prevent disclosure of
10 confidential information if such disclosure is required by law or by order of the Court.

11 21. Upon final termination of this action, including any and all appeals, counsel
12 for each party must, upon request of the producing party, return all confidential information
13 to the party that produced the information, including any copies, excerpts, and summaries
14 of that information, or must destroy same at the option of the receiving party, and must
15 purge all such information from all machine-readable media on which it resides.
16 Notwithstanding the foregoing, counsel for each party may retain all pleadings, briefs,
17 memoranda, motions, and other documents filed with the Court that refer to or incorporate
18 confidential information, and will continue to be bound by this Order with respect to all
19 such retained information. Further, attorney work product materials that contain
20 confidential information need not be destroyed, but, if they are not destroyed, the person
21 in possession of the attorney work product will continue to be bound by this Order with
22 respect to all such retained information.

23 22. The restrictions and obligations set forth within this order will not apply to
24 any information that: (a) the parties agree should not be designated confidential
25 information; (b) the parties agree, or the Court rules, is already public knowledge; (c) the
26 parties agree, or the Court rules, has become public knowledge other than as a result of
27 disclosure by the receiving party, its employees, or its agents in violation of this Order; or
28 (d) has come or will come into the receiving party's legitimate knowledge independently

1 of the production by the designating party. Prior knowledge must be established by pre-
2 production documentation.

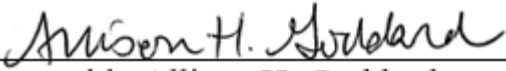
3 23. The restrictions and obligations within this order will not be deemed to
4 prohibit discussions of any confidential information with anyone if that person already has
5 or obtains legitimate possession of that information.

6 24. Transmission by email or some other currently utilized method of
7 transmission is acceptable for all notification purposes within this Order.

8 25. This Order may be modified by agreement of the parties, subject to approval
9 by the Court.

10 26. The Court may modify the protective order *sua sponte* in the interests of
11 justice or for public policy reasons.

12
13 Dated: September 21, 2021

14 
15 _____
16 Honorable Allison H. Goddard
17 United States Magistrate Judge
18
19
20
21
22
23
24
25
26
27
28

1 **EXHIBIT A**

2 **AGREEMENT TO BE BOUND BY PROTECTIVE ORDER**

3 I, _____, being duly sworn, state that:

4 1. My address is _____.

5 2. My present employer is _____ and the
6 address of my present employment is _____.

7 3. My present occupation or job description is _____.

8 4. I have carefully read and understood the provisions of the STIPULATED
9 PROTECTIVE ORDER in this case signed by the Court, and I will comply with all
10 provisions of the Protective Order.

11 5. I will hold in confidence and not disclose to anyone not qualified under the
12 Protective Order any Confidential Material (defined as material designated as
13 "CONFIDENTIAL" or "CONFIDENTIAL FOR COUNSEL ONLY" or information
14 derived from such materials) or any words, summaries, abstracts, or indices of Confidential
15 Information disclosed to me.

16 6. I will limit use of Confidential Material disclosed to me solely for purpose of
17 this action.

18 7. No later than the final conclusion of the case, I will return all Confidential
19 Material and summaries, abstracts, and indices thereof which come into my possession,
20 and documents or things which I have prepared relating thereto, to counsel for the party for
21 whom I was employed or retained.

22 I declare under penalty of perjury under the laws of the United States that the
23 foregoing is true and correct.

24
25 Dated: _____

26
27 Signature: _____

28