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21 *STOP Franchising SPE LLC*

22 **UNITED STATES DISTRICT COURT**  
23 **DISTRICT OF NEVADA**

24 STOP FRANCHISING SPE LLC, a  
25 Delaware limited liability company,

26 Plaintiff,

27 v.

28 MICHAEL MENDOZA, INC., a Nevada  
corporation; MICHAEL MENDOZA, an  
individual; and DOES 1 THROUGH 10,

Defendants.

MICHAEL MENDOZA, INC., a Nevada  
Corporation,

Counterclaimant,

vs.

STOP FRANCHISING SPE LLC, a  
Delaware limited liability company,

Counterdefendant.

Case No.: 2:22-cv-01471-GMN-BNW

**STIPULATION AND PROTECTIVE  
ORDER TO PROTECT CONFIDENTIAL  
INFORMATION**

1 Plaintiff/Counterdefendant STOP Franchising SPE LLC, Defendant/Counterclaimant  
2 Michael Mendoza, Inc., and Defendant Michael Mendoza (collectively, the “Parties”), through their  
3 respective counsel of record in this action, hereby agree to this Stipulation and Protective Order to  
4 Protect Confidential Information (“Protective Order”), and further agree that this Court may enter  
5 an order on this Protective Order.

6 **1. PURPOSE**

7 The purpose of this Protective Order is to allow the Parties, to the extent permitted under  
8 the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the  
9 District of Nevada, such access to Protected Material (defined below) as is necessary to prosecute  
10 or defend the Action (defined below) while at the same time to protect any confidential information  
11 contained within the Protected Material that may, and/or already has, come into the possession of  
12 any Party in connection with the Action. Nothing in the Protective Order shall limit or modify the  
13 rights of any Party to use the information, documents, or things which it produces to another Party.

14 **2. DEFINITIONS**

15 2.1. **Action.** “Action” means the above-entitled action pending in the United States  
16 District Court for the District of Nevada, Case No.: 2:22-cv-01471-GMN-BNW.

17 2.2. **Counsel.** “Counsel” means counsel of record and authorized co-counsel of any  
18 Party, and their employees and support personnel, jury consultants, electronic discovery  
19 consultants and document vendors, trial graphics personnel and other assistants, who are  
20 not employees of a Party and to whom it is necessary to disclose Protected Material in the  
21 Action.

22 2.3. **Independent Expert.** “Independent Expert” means an expert or independent  
23 consultant who is not an employee of a Party and is retained solely to advise and assist  
24 Counsel in the preparation or trial of the Action, or retained to give expert testimony, or  
25 retained for both purposes, and his or her secretarial or other assistants, to whom it is  
26 necessary to disclose Protected Material in the Action.

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1           2.4.    **Party.** “Party” means each party to the Action, including their respective officers,  
2           directors, employees, and agents (but not Counsel).

3           2.5.    **Produced Material.** “Produced Material” means any information, document, file,  
4           electronically stored information (“ESI”), or tangible thing upon which any expression,  
5           communication, or representation has been recorded by any means, or any response to any  
6           discovery request (including by way of example document requests, interrogatories,  
7           requests for admissions, notices of deposition, requests to inspect, and deposition  
8           subpoenas), or portions thereof, to be provided, or already provided, by any Producing Party  
9           or third party to any other party, in connection with the Action.

10          2.6.    **Producing Party.** “Producing Party” means a Party or third party and its officers,  
11          directors, employees and agents (including Counsel), that produces or otherwise makes  
12          available Produced Material to a Receiving Party.

13          2.7.    **Receiving Party.** “Receiving Party” means a Party and all its officers, directors,  
14          employees and agents (including Counsel), that receive Produced Material from a Producing  
15          Party.

16    **3.    PROTECTED MATERIAL.**

17           “Protected Material” as used in this Protective Order shall mean any Produced Material that  
18           contains confidential information: (A) in which the Producing Party has a protected privacy interest  
19           under federal or state law; or (B) that has not been made publicly available (as a result of legal or  
20           ethical means) and from which the Producing Party derives independent economic value, actual or  
21           potential, from not being generally known to the public or to other persons who can obtain economic  
22           value from its disclosure or use. The use and dissemination of any Protected Material by a  
23           Receiving Party is strictly limited to the Action. Protected Material may not be used or  
24           disseminated for any other purpose without the written consent of the Producing Party, or by order  
25           of the Court.

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1           3.1.    **Designation of Protected Material.** A Producing Party, at the time of producing  
2           Produced material, or as soon as the Producing Party reasonably determines the need,  
3           therefore, may designate any Produced Material as Protected Material by producing the  
4           documents claimed Protected Material marked with the legend “CONFIDENTIAL –  
5           Subject to Protective Order.” To the extent possible, the legend should be placed by the  
6           Producing Party on each page of the Protected Material. Where the Producing Party is  
7           unable to place the legend on each page (or it is commercially unreasonable to do so), for  
8           instance where the Producing Party seeks to produce a native electronic file, the Producing  
9           Party should take other precautions to prominently flag the information as Protected  
10          Material, including, but not limited to, placing the legend in the file name of the native  
11          electronic file. The Producing Party shall act in good faith in attempting to limit the amount  
12          of Produced Material that is designated as Protected Material. If only a portion of certain  
13          Produced Material qualifies as Protected Material, the Producing Party shall act in good  
14          faith to limit the Protected Material designation to only that portion.

15          3.2.    **Designation Not Determinative of Status.** The Producing Party’s designation of  
16          Produced Material as Protected Material does not create a presumption that the materials  
17          are Protected Material, nor shall the Receiving Party’s receipt of Protected Material be a  
18          determination or admission by the Receiving Party that such material is in fact protected as  
19          Protected Material. The Receiving Party shall not be obligated to challenge a “Protected  
20          Material” designation at the time of receipt, and a failure to do so shall not preclude a later  
21          challenge to the propriety of such a designation. The fact that Produced Material is not  
22          designated as Protected Material shall not, in and of itself, preclude a Party from later  
23          seeking to designate such material as Protected Material.

24    **4.    PERSONS WITH ACCESS TO PROTECTED MATERIAL.**

25          Protected Material may not be disclosed or discussed in any manner with any entity or  
26    person except for the following:

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1           4.1.    **Counsel.** Each Party’s respective Counsel shall have access to and may use any  
2           Protected Material only for the purposes of prosecuting, defending, or attempting to settle  
3           the Action.

4           4.2.    **Parties.** A Party to the litigation, as distinguished from that Party’s Counsel and  
5           any Independent Experts, shall have access to and may use Protected Material only for the  
6           purposes of the Action and only after complying with Section 5 of this Protective Order.  
7           For Parties that are business entities, this term shall refer to their officers, directors or  
8           employees.

9           4.3.    **Independent Experts.** Counsel for a Receiving Party may make any Protected  
10          Material available to its Independent Expert or to another Party’s Independent Expert only  
11          after complying with Section 5 of this Protective Order.

12          4.4    **Court Reporters.** Court reporters in this Action (whether at depositions, hearings,  
13          or any other proceeding), only after complying with Section 5 of this Protective Order.

14          4.5    **Witnesses.** Any deposition, trial or hearing witness, only after complying with  
15          Section 5 of this Protective Order.

16                It shall be the obligation of Counsel, upon learning of any breach or threatened breach of  
17          this Protective Order by any person with access to Protected Material under this Protective Order,  
18          to notify the Producing Party.

19          **5.    ACKNOWLEDGEMENT OF PROTECTIVE ORDER.**

20                Except when used in a deposition or court, before obtaining access to any copies of  
21          Protected Material covered by this Protective Order, each person (other than Counsel) who is  
22          permitted to have access to such material must signify assent to, and agree to be bound by, the terms  
23          of this Protective Order by executing the acknowledgement attached as Appendix A hereto,  
24          indicating that he or she has read and understood this Protective Order and agrees to be bound by  
25          its terms. The acknowledgements shall be confidentially maintained by Counsel for the Receiving  
26          Party until after complete resolution of the Action, including any appeal, and shall be immediately  
27          provided to the Producing Party upon request.

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**6. HANDLING OF PROTECTED MATERIAL**

6.1. **General.** All Protected Material is to be used solely for the purposes of the Action. Persons having access to Protected Material shall not disclose or provide Protected Material to any person not authorized under Section 4 of this Protective Order without written permission from Counsel for the Producing Party.

6.2. **Protected Materials Filed with the Court.** Any Party that wishes to file or lodge Protected Material with the Court must file or lodge the Protected Material under seal in accordance with Section 7 of this Protective Order. This includes any briefs, transcripts, exhibits, depositions, or documents that contain, comprise, summarize, or quote from Protected Material. The Parties agree to work in good faith concerning sealing issues. To the extent the Court denies any motion or application to seal, the Parties agree to work in good faith to explore alternatives for protecting the Protected Material.

6.3. **Deposition Transcripts.** Protected Material may be used at a deposition in accordance with this Protective Order. During the deposition, counsel seeking to use or refer to Protected Material shall state, on the record, that such Protected Material is subject to this Protective Order and that deposition questions and answers relating to the Protected Material are to be treated as Protected Material, and that the portion of the deposition transcript which relates to the Protected Material shall also be marked and treated as Protected Material. To the extent the deponent has not already complied with Section 5 of this Protective Order, the Party seeking to introduce the Protected Material as an exhibit at the deposition shall seek to have the deponent comply with Section 5 of this Protective Order. Whether the Party seeking to introduce the exhibit is successful in obtaining the deponent's compliance with Section 5 of this Protective Order, the Parties should work together to ensure that the deponent does not leave the deposition with a physical or electronic copy of the Protected Material, and the confidential portion of the deposition transcript relating to the Protected Material is not retained by the deponent (whether in physical or electronic format).

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1           6.4.    **Return of Protected Material After Final Disposition or Termination of**  
2           **Participation in the Action.** Once participation in the Action by any Receiving Party that  
3           obtained Protected Material has been terminated or otherwise finally concluded, Counsel  
4           for the Receiving Party shall either return all Protected Material in the possession of the  
5           Receiving Party or its agents to Counsel for the Producing Party or dispose of all Protected  
6           Material in some other manner agreed upon with Counsel for the Producing Party.  
7           However, Counsel for the Receiving Party may maintain in its files, in continuing  
8           compliance with the terms of this Protective Order, all work product, and copies of each  
9           pleading filed with the Court and copies of each deposition together with the exhibits.  
10          Protected Material retained by Counsel of a Receiving Party shall retain the status of  
11          Protected Material despite termination of this Action, and it shall be treated in accordance  
12          with the terms of this Protective Order, unless the Parties otherwise agree or the Court  
13          otherwise orders. However, (a) the Parties further agree that any information learned from  
14          that Protected Material that has been returned or destroyed shall remain confidential  
15          pursuant to the terms of this Protective Order; and (b) this Protective Order shall survive the  
16          termination of this Action, including any appeals thereof, and the Court shall retain  
17          continuing jurisdiction to enforce or resolve any dispute concerning the use of information  
18          disclosed hereunder.

19          6.5.    **Advice of Counsel.** Nothing in this Protective Order shall bar or otherwise restrict  
20          Counsel from rendering advice to a Party with respect to the Action, and in the course  
21          thereof, relying upon any Protected Material. However, in rendering such advice and in  
22          otherwise communicating with a Party, such Counsel shall not disclose the contents of any  
23          Protected Material contrary to the terms of intent of this Protective Order.

24          6.6    **Other Actions and Proceedings.** If a Receiving Party (a) is subpoenaed in another  
25          action or proceeding, (b) is served with a demand in another action or proceeding in which  
26          it is a party, or (c) is served with any legal process by one not a Party to this Protective  
27          Order, seeking discovery materials which were produced or designated as containing  
28          Protected Material pursuant to this Protective Order, the Receiving Party shall give prompt

1 written notice by e-mail or facsimile transmission to Counsel for the Producing Party within  
 2 five (5) business days of receipt of such subpoena, demand or legal process or such shorter  
 3 notice as may be required to provide the Producing Party with the opportunity to object to  
 4 the immediate production of the requested discovery materials to the extent permitted by  
 5 law. The Receiving Party shall advise the Producing Party in writing of the following: (i)  
 6 the information, documents, materials, items and things sought by the subpoena, demand or  
 7 other legal process; (ii) the date on which compliance with the subpoena, demand or other  
 8 legal process is requested or required; (iii) the location at which compliance with the  
 9 subpoena, demand or other legal process is requested or required; (iv) the identity of the  
 10 Party serving the subpoena, demand or other legal process; and (v) the case name,  
 11 jurisdiction, and other information reasonably necessary to identify the other action or  
 12 proceeding in which the subpoena, demand or other legal process has been issued. Should  
 13 the person seeking access to the Protected Material take action against the Receiving Party  
 14 or anyone else covered by this Protective Order to enforce such a subpoena, demand or other  
 15 legal process, the Receiving Party shall respond by setting forth the existence of this  
 16 Protected Material. However, where the Producing Party has been given notice pursuant to  
 17 this paragraph, the Parties agree that the Producing Party shall bear the time and expense of  
 18 any motion practice or other court action associated with protecting its Protected Material  
 19 from discovery by any Party seeking the Protected Material through subpoena, demand, or  
 20 other legal process.

21 **7. PROCEDURE FOR FILING PROTECTED MATERIAL UNDER SEAL**

22 7.1. A Party that wishes to file or lodge its own Protected Material with the Court must  
 23 comply with all applicable rules for submitting materials under seal, including, but not  
 24 limited to the requirements under federal law and the Local Rules, including but not limited  
 25 to LR IA 10-5.

26 **8. CHALLENGING A PROTECTED MATERIAL DESIGNATION.**

27 A Receiving Party wishing to challenge a Protected Material designation must first advise  
 28 counsel for the Producing Party, in writing, of such objection(s), the specific Protected Material to



1 which each objection pertains, and the specific reasons for such objection(s) (the “Designation  
2 Objections”). Upon receiving the Designation Objections, the Designating Party must attempt to  
3 meet and confer in good faith with the Receiving Party in an effort to informally resolve such  
4 dispute. If reasonable meet and confer efforts are unsuccessful, the Producing Party seeking the  
5 Protected Material designation shall timely move or apply to the Court for a ruling on their  
6 Protected Material designation. In the event of such a motion or application, the Producing Party  
7 shall bear the burden of proving that the materials qualify as Protected Material. Until the Court  
8 rules on such motion or application, the materials shall remain Protected Material.

9 If a Party withdraws its Protected Material designation as to any Produced Material, or if  
10 the Court denies a motion regarding such designation, then the Producing Party must provide  
11 replacement Produced Material that are free from any markings or designations.

12 **9. CLAWBACK PROVISION.**

13 If a Producing Party contends that it has inadvertently disclosed or produced material that it  
14 alleges is protected by the attorney-client privilege, the work product doctrine, or any other  
15 privilege or protection provided under applicable law, or is otherwise immune to discovery (the  
16 “Subject Privileged Material”), then the Producing Party shall immediately notify the Receiving  
17 Party in writing upon its discovery of the inadvertent disclosure or production. It is agreed that the  
18 Subject Privileged Material shall be without prejudice to any claim that it is Protected Material, and  
19 the Producing Party shall not be held to have automatically waived any rights by such production.  
20 It is further agreed that either a Producing Party or a Receiving Party may challenge the claim to  
21 inadvertent disclosure as having been waived and such waiver may be analyzed under applicable  
22 law by this Court.

23 Upon receiving notification of the inadvertent disclosure of the Subject Privileged Material,  
24 and in no event later than three (3) business days, the Receiving Party shall immediately return,  
25 sequester, or destroy any and all copies of the Subject Privileged Material identified in the notice,  
26 and may not use, produce or disclose to other persons or non-parties the Subject Material until the  
27 claim of privilege or protection is resolved. If the Receiving Party produces, discloses, or uses the

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1 Subject Material before being notified of its alleged privileged or protected nature, then it shall take  
2 reasonable measures necessary to retrieve it and preclude its further use.

3       Upon request, the Receiving Party shall certify, in writing, that it has complied with the  
4 terms and conditions set forth in this paragraph; however, the Receiving Party shall not waive or  
5 prejudice any right it may have to challenge the alleged privilege or protected nature of the Subject  
6 Privileged Material, nor shall it waive or prejudice any right it may have to challenge or contest the  
7 Producing Party's claim of inadvertent production or disclosure. If, after undertaking an  
8 appropriate meet-and-confer process, a resolution cannot be reached concerning the production or  
9 disclosure of the Subject Privileged Material, any Party may file a motion with the Court for a  
10 determination of the claim and the Parties agree that the Subject Privileged Material shall be  
11 protected via appropriate sealing or in camera submission. The Subject Privileged Material shall be  
12 preserved until the claim is resolved. If a Receiving Party believes in good faith that material  
13 received from a Producing Party or person or non-party is potentially covered by the attorney-client  
14 privilege, the work product doctrine, or any other privilege or protection provided under applicable  
15 law, then the Receiving Party shall notify the other Party or person or non-party in writing within a  
16 reasonable time that it has possession of the material in question. If, in response to this notification,  
17 the Party asserts that the material may be privileged or protected under applicable law, then the  
18 Parties shall comply with the process set forth in this paragraph.

19       The Parties further agree that this section's clawback rights and procedures shall apply to  
20 all material produced in discovery whether or not it is designated "CONFIDENTIAL – Subject to  
21 Court Order."

22 **10. RIGHT TO FURTHER RELIEF.**

23       This Protective Order, and any order hereon, is without prejudice to the right of any Party  
24 to apply to the Court for relief from any of its provisions or to seek different or additional protection  
25 for any particular Produced Material. Further, the Parties agree that this Protective Order may be  
26 amended from time to time by written agreement of counsel for the Parties, which agreement shall  
27 be submitted to the Court and only effective upon the Court's approval.

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1 **11. RIGHT TO ASSERT OTHER OBJECTIONS.**

2 This Protective Order, and any order thereon, shall not waive or limit the Parties' rights to  
3 assert a claim of privilege, other recognized protection, or other evidentiary objection to production,  
4 Protective Order, or other use of Produced Material.

5 **12. APPLICATION TO THIRD PARTIES.**

6 This Protective Order shall inure to the benefit of and may be invoked and enforced by third  
7 parties with respect to documents and information produced by them in the course of pretrial  
8 discovery in this action (e.g., in response to subpoena) and designated by them in the manner  
9 provided herein. Any third party invoking the Protective Order shall comply with, and be subject  
10 to, all other applicable sections of the Protective Order.

11 **13. NO WAIVER OF PRIVILEGE.**

12 This Protective Order will not prejudice the right of any Party or non-party to oppose  
13 production of any information on the ground of attorney-client privilege, work product privilege or  
14 any other privilege or protection provided under the law.

15 **14. INJUNCTIVE RELIEF AVAILABLE.**

16 Each Party acknowledges that monetary remedies may be inadequate to protect each Party  
17 in the case of unauthorized disclosure or use of Protected Material and that seeking injunctive relief  
18 may be appropriate to protect each Party's rights in the event there is any such unauthorized  
19 disclosure or use of Confidential Information, in addition to whatever relief may be available at law  
20 or in equity.

21 **15. PROTECTED MATERIALS AT TRIAL.**

22 The parties shall meet and confer regarding the procedure for the use of Protected Materials  
23 at trial and shall move the Court for entry of an appropriate order.

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1 **16.** After this Protective Order has been signed by Counsel for all Parties, it shall be presented  
2 to the Court for entry. Counsel agrees to be bound by the terms set forth herein with regard to any  
3 Protected Materials that have been produced, if any, before the Court signs this Stipulation and  
4 Protective Order.

5 **17.** This Protective Order may be executed in counterparts.

6 **IT IS SO STIPULATED.**

7 Dated: December 12, 2022  
8 MCDONALD CARANO LLP

Dated: December 12, 2022  
WILEY PETERSEN LAW

9 By: /s/ Kiley A. Harrison  
10 Rory T. Kay, Esq. (NSBN 9224)  
11 Tara U. Teegarden, Esq. (NSBN  
12 15344)  
13 Kiley A. Harrison, Esq. (NSBN 16092)  
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17 *defendant STOP Franchising SPE LLC*

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*Attorneys for Defendant Michael*  
*Mendoza and Defendant/Counterclaimant*  
*Michael Mendoza, Inc.*

18 Dated: December 12, 2022  
19 MORTENSON TAGGART ADAMS LLP

20 By: /s/ Kevin A. Adams  
21 Kevin A. Adams, Esq.  
22 (admitted *pro hac vice*)  
23 CA State Bar No. 239171  
24 Robert A. Schultz, Esq.  
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26 CA State Bar No. 305367  
27 300 Spectrum Center Dr., Suite 1200  
28 Irvine, CA 92618  
*Attorneys for Plaintiff/Counterdefendant*  
*STOP Franchising SPE LLC*

**IT IS SO ORDERED.**

  
UNITED STATES MAGISTRATE JUDGE

DATED: December 13, 2022

**APPENDIX A TO PROTECTIVE ORDER**

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I, \_\_\_\_\_, have received, read, understand, and hereby agree to be bound by the terms of the foregoing Protective Order (and any Court Order entered on the Protective Order), entered in Case No. 2:22-cv-01471-GMN-BNW which I acknowledge have been provided to me. I agree not to disclose, discuss, or otherwise use Protected Material (as defined in the Protective Order) except to the extent allowed under, and in compliance with, the Protective Order. I further agree to take reasonable precautions to ensure that any Protected Material provided to me remains in a secure and confidential location so as to prevent unauthorized access to such material.

I understand that my access to Protected Materials in this case is solely as a result of, and conditioned upon, my acceptance of, and agreement to be bound by, the terms of this Protective Order. I recognize that any failure to comply with the Protective Order, and any Court Order entered thereon, may result in action being taken against me. I hereby consent to the jurisdiction of the United States District Court, District of Nevada, for the sole purpose of enforcing the Protective Order and any Court Order entered thereon.

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

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