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 13 *Robert L. Leberman*

14 **UNITED STATES DISTRICT COURT**
 15 **DISTRICT OF NEVADA**

16 KPG INVESTMENTS INC., a Nevada
 17 corporation; KENDALLE GETTY, an individual,

Case No.:
 3:22-cv-00236-ART-CLB

18 Plaintiffs,

19 v.

20 MARLENA SONN, an individual; AND DOES
 21 1-20,

22 Defendant.

23 _____ /
 24 MARLENA SONN,

Consolidated with:
 3:22-cv-00323-ART-CLB

25 Plaintiff,

26 v.

27 KENDALLE P. GETTY, as Trustee of the
 28 Pleiades Trust and as an individual, KPG
 INVESTMENTS, INC., as Trustee of the
 Pleiades Trust, ALEXANDRA SARAH
 GETTY, as Trustee of the Pleiades Trust and as
 an individual, ASG INVESTMENTS, INC., as
 Trustee of the Pleiades Trust, MINERVA
 OFFICE MANAGEMENT, INC., and
 ROBERT L. LEBERMAN,

**ORDER GRANTING
 STIPULATED
 PROTECTIVE ORDER**

_____ /
 Defendants.

1 KPG Investments Inc., Kendalle Getty, Alexandra Sarah Getty, ASG Investments, Inc.,
2 Minerva Office Management, Inc., Robert L. Leberman, and Marlena Sonn (collectively, the
3 “Parties”), by and through their respective counsel of record, stipulate and agree that upon approval
4 by this Court, that this protective order shall govern the handling and disclosure of all documents,
5 testimony, or other information produced or given in this case that is designated as subject to this
6 order and its terms.

7 **I. PURPOSES AND LIMITATIONS**

8 Disclosure and discovery activity in this action are likely to involve production of
9 confidential, proprietary, or private information for which special protection from public disclosure
10 and from use for any purpose other than prosecuting this litigation may be warranted. Such
11 information includes trade secrets, medical information, health information, employment
12 information, commercial or financial information, including as to trusts, corporations, and
13 individuals, or other information that may cause harm to the producing party or a non-party if publicly
14 disclosed.

15 **II. DESIGNATION OF PROTECTED INFORMATION**

16 A. Scope: This Order governs the production and handling of any protected information
17 in this action. Any party or non-party who produces protected information in this action may
18 designate it as “CONFIDENTIAL” consistent with the terms of this Order. “**Designating Party**”
19 means the party or non-party who so designates the protected information; “**Receiving Party**” means
20 the party or non-party to whom such information was produced or disclosed. Whenever possible, the
21 Designating Party must designate only those portions of a document, deposition, transcript, or other
22 material that contain the protected information and refrain from designating entire documents.
23 Regardless of any designations made hereunder, the Designating Party is not otherwise restricted
24 from use or disclosure of its protected information outside of this action. In addition, any party may
25 move to modify or seek other relief from any of the terms of this Order if it has first tried in writing
26 and in good faith to resolve its needs or disputes with the other party(ies) pursuant to the terms of this
27 Order.

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1 B. Application to Non-Parties: Before a non-party is given copies of designated
2 information as permitted hereunder, it must first sign the acknowledgment to be bound to these terms
3 that is attached hereto as Exhibit A; if it fails to do so, the parties to this action must resolve any such
4 dispute before making disclosure of designated information as permitted hereunder to the non-party.
5 If a non-party wishes to make designations hereunder, it must first sign the acknowledgment to be
6 bound to these terms that is attached hereto as Exhibit A.

7 C. Timing and Provisional Protection: Designations may be made at any time. To avoid
8 potential waiver of protection hereunder, the Designating Party should designate information at the
9 time of production or disclosure, including on the record during the taking of any testimony.
10 Deposition testimony will be deemed provisionally protected for a period of 30 days after the
11 transcript is released to the parties by the court reporter, although the parties may agree at any time
12 to different timelines of provisional protection of information as Confidential as part of one or more
13 specific depositions. To retain any designations beyond the provisional period, a Designating Party
14 must designate specific pages and lines of deposition testimony before the provisional period has
15 expired. Such designations must be made in writing so that all counsel and court reporters may append
16 the designation to all copies of the transcripts.

17 D. Manner of Designation: Information may be designated hereunder in any reasonable
18 manner or method that notifies the Receiving Party of the designation level and identifies with
19 specificity the information to which the designation applies. If made verbally, the Designating Party
20 must promptly confirm in writing the designation. Whenever possible, the Designating Party should
21 stamp, affix, or embed a legend of “CONFIDENTIAL” on each designated page of the document or
22 electronic image.

23 **III. CHALLENGES TO DESIGNATED INFORMATION**

24 In the event that a Receiving Party disagrees at any time with any designation(s) made by the
25 Designating Party, the Receiving Party must first try to resolve such challenge in good faith on an
26 informal basis with the Designating Party. The Receiving Party must provide written notice of the
27 challenge and the specific grounds therefor to the Designating Party, who must respond in writing to
28 the challenge within 15 days. At all times, the Designating Party carries the burden of establishing

1 the propriety of the designation. If the objection cannot be resolved by agreement of counsel, the
2 Designating Party must move the Court for an appropriate order regarding such designation. Failure
3 to file a written motion seeking confidentiality protection on or before 30 days after the written
4 objection to the confidentiality designation will result in the designated materials losing
5 confidentiality protection. Unless and until the challenge is resolved by the parties or ruled upon by
6 the Court, the designated information will remain protected under this Order. The failure of any
7 Receiving Party to challenge a designation does not constitute a concession that the designation is
8 proper or an admission that the designated information is otherwise competent, relevant, or material.

9 **IV. LIMITED ACCESS/USE OF PROTECTED INFORMATION**

10 A. Restricted Use: Information that is produced or exchanged in the course of this action
11 and designated under this Order as “Confidential Information”, below, may be used solely for the
12 preparation, trial, and any appeal of this action, as well as related settlement negotiations, and for no
13 other purpose, without the written consent of the Designating Party. No designated information may
14 be disclosed to any person except in accordance with the terms of this Order, as required by law or
15 by order of the Court. All persons in possession of designated information agree to exercise
16 reasonable care with regard to the custody, use, or storage of such information to ensure that its
17 confidentiality is maintained. This obligation includes, but is not limited to, the Receiving Party
18 providing to the Designating Party, if allowed by law, prompt notice of the receipt of any subpoena
19 that seeks production or disclosure of any designated information and consulting with the Designating
20 Party before responding to the subpoena. Any use or disclosure of Confidential information in
21 violation of the terms of this Order may subject the disclosing person or party to sanctions.
22 Notwithstanding the above, a party is free to do whatever it desires with its own Confidential
23 Information.

24 B. Access to “Confidential” Information: The parties and all persons subject to this Order
25 agree that information designated as “CONFIDENTIAL” may only be accessed or reviewed by the
26 following:

- 27 1. The Court, its personnel, and court reporters;

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- 1 2. Counsel of record for any party in this action and their employees, and litigation
2 or discovery vendors, who assist counsel of record in this action and are informed
3 of the duties hereunder;
- 4 3. The parties, including their employees, who are assisting or have reason to know
5 of this action, so long as each such agent or employee has signed the
6 acknowledgment to be bound to these terms that is attached hereto as Exhibit A;
- 7 4. Court reporters, videographers, and any other necessary persons for the purposes
8 of depositions, so long as each such person has signed the acknowledgment to be
9 bound to these terms that is attached hereto as Exhibit A;
- 10 5. Experts or consultants employed by the parties or their counsel for purposes of this
11 action, so long as each such expert or consultant has signed the acknowledgment
12 to be bound to these terms that is attached hereto as Exhibit A; and
- 13 6. Other witnesses or persons with the Designating Party's consent or by court order.

14 C. Review of Witness Acknowledgments: At any time and for any purpose, including to
15 monitor compliance with the terms hereof, any Designating Party may demand to review all copies
16 of Exhibit A in any Receiving Party's possession. The Receiving Party must, within 5 business days
17 of the demand, provide all such copies to the Designating Party making the demand. Notwithstanding
18 the foregoing, if the Receiving Party has retained an expert whose identity has not yet been disclosed
19 to the Designating Party, the Receiving Party may generically identify how many acknowledgments
20 that it has in its possession attributable to non-disclosed experts, whose acknowledgements must later
21 be provided contemporaneously with any reports issued by one or more of said experts. If a Receiving
22 Party is not required to disclose the identity of any consulting experts, it may not be compelled to
23 produce any acknowledgments from those experts to the Designating Party. However, if the
24 Designating Party provides to the Court evidence of breach of this Order via unauthorized leak of
25 designated information, the Court may require an *in camera* production of all acknowledgments held
26 by a Receiving Party in order to determine breach and consider enforcement of this Order.

27 D. Non-Waiver Effect of Designations: Neither the taking of, nor the failure to take, any
28 action to enforce the provisions of this Order, nor the failure to object to any designation, will

1 constitute a waiver of any party’s claim or defense in this action or any other action or proceeding,
2 including but not limited to a claim or defense that any designated information is or is not confidential,
3 is or is not entitled to particular protection, or embodies or does not embody information protectable
4 by law.

5 E. In-Court Use of Designated Information: Unless otherwise permitted by statute, rule
6 or prior court order, papers filed with the court under seal shall be accompanied by a contemporaneous
7 motion for leave to file those documents under seal, and shall be filed consistent with the court’s
8 electronic filing procedures in accordance with Local Rule IA 10-5. Notwithstanding any agreement
9 among the parties, the party seeking to file a paper under seal bears the burden of overcoming the
10 presumption in favor of public access to papers filed in court. *Kamakana v. City and County of*
11 *Honolulu*, 447 F.2d 1172 (9th Cir. 2006); *Center for Auto Safety v. Chrysler Group, LLC*, 809 F.3d
12 1092, 1097 (9th Cir. 2016).

13 F. Preservation of Objections to Discovery and Admissibility: Nothing in this Order
14 shall be construed as a waiver by a party of any objections that may be raised as to the relevance
15 and/or discoverability of any documents or information in this action. Additionally, nothing in this
16 Order shall be construed as a waiver by a party of any objections that may be raised as to the
17 admissibility at trial of any evidentiary materials.

18 **V. CLAW-BACK REQUESTS**

19 A. Failure to Make Designation: If, at any time, a party or non-party discovers that it
20 produced or disclosed protected information without designation, it may promptly notify the
21 Receiving Party and identify with particularity the information to be designated and the level of
22 designation (the “Claw-Back Notification”). The Receiving Party may then request substitute
23 production of the newly designated information. Within 30 days of receiving the Claw-Back
24 Notification, the Receiving Party must (1) certify to the Designating Party it has appropriately marked
25 or, if substitute production has been requested, destroyed all unmarked copies that it received, made,
26 and/or distributed; and (2) if it was practicably unable to mark or destroy any information because
27 disclosures occurred while the Receiving Party was under no duty of confidentiality under the terms
28 of this Order regarding that information, the Receiving Party must reasonably provide as much

1 information as practicable to aid the Designating Party in protecting the information, consistently
2 with the Receiving Party's attorney-client, work-product, and/or trial-preparation privileges.

3 B. Inadvertent Production of Privileged Information: If, at any time, a party discovers
4 that it produced information that it reasonably believes is subject to protection under the
5 attorney/client, work-product, or trial-preparation privileges, then it must promptly notify each
6 Receiving Party of the claim for protection, the basis for it, amend its privilege log accordingly, and
7 comply with Fed. R. Civ. P. 26(b)(5). Whenever possible, the producing party must produce
8 substitute information that redacts the information subject to the claimed protection. The Receiving
9 Party must thereupon comply with Fed. R. Civ. P. 26(b)(5) as to the information subject to the claimed
10 protection.

11 C. Non-Waiver: Any disclosure of any material subject to a claim of confidentiality or
12 privilege does not operate as a waiver of such claim if: (1) the disclosure is inadvertent; (2) the holder
13 of the privilege took reasonable steps to prevent disclosures; and (3) the holder promptly took
14 reasonable steps to rectify the error, including following the procedures outlined in this section.

15 **VI. DURATION/CONTINUED RESTRICTIONS**

16 A. Handling of Designated Information Upon Conclusion of Action: Upon conclusion
17 of this action, including all appeals, the Designating Party(ies) is/are responsible for ensuring that any
18 party or person to whom the party shared or disclosed designated information in this action returns
19 or destroys all of its copies, regardless of the medium in which it was stored. Within 60 days after
20 the later of dismissal of this action or expiration of all deadlines for appeal, the Receiving Party(ies)
21 must certify to each Designating Party that all designated information hereunder has been destroyed
22 by all parties and witnesses for whom that party is responsible. No witness or party may retain
23 designated information that it received from any other party or non-party under this Order; only
24 counsel of record are the authorized agents who may retain one copy for their respective legal files,
25 consistent with any applicable ethical obligations, and who must also describe to the Designating
26 Party the extra steps taken to seal its legal file containing paper and/or electronic copies of the
27 designated information so that it is not accessed, used, or disclosed inconsistently with the obligations
28 under this Order. This provision does not apply to the Court or Court staff.

1 B. Continued Restrictions Under this Order: The restrictions on disclosure and use of
2 confidential information survive the conclusion of this action.

3 C. Jurisdiction: The Court will only retain jurisdiction over this order while the case is
4 pending and its jurisdiction will cease upon dismissal of the case.

5 **IT IS SO STIPULATED.**

6 DATED: April 12, 2023
7 **GUNDERSON LAW FIRM**

DATED: April 11, 2023
MCDONALD CARANO LLP

8 By: /s/ Mark Gunderson
9 Mark H. Gunderson, Esq.
10 Austin K. Sweet, Esq.
11 *Attorneys for Minerva Office Management,
12 Inc. and Robert L. Leberman*

By: /s/ Leigh Goddard
Leigh T. Goddard, Esq.
Daniel I. Aquino, Esq.
Tara U. Teegarden, Esq.
*Attorneys for KPG Investments, Inc. and
Kendalle Getty*

13 DATED: April 12, 2023
14 **PAUL HASTINGS LLP**

DATED: April 12, 2023
LEMONS, GRUNDY & EISENBERG

15 By: /s/ Ryan Derry
16 Ryan D. Derry, Esq.
17 *Attorney for Alexandra Sarah Getty
and ASG Investments, Inc.*

By: /s/ Alice Campos Mercado
Alice Campos Mercado, Esq.
*Attorney for Alexandra Sarah Getty
and ASG Investments, Inc.*

18 DATED: April 12, 2023
19 **ROGER WENTHE, PLLC**

20 By: /s/ Roger Wenthe
21 Roger Wenthe, Esq.

22
23 **POLLOCK COHEN LLP**

24 By: /s/ Adam Pollock
25 Adam Pollock, Esq. (*pro hac vice*)
26 Christopher Leung, Esq. (*pro hac vice*)
27 *Attorneys for Marlana Sonn*

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ORDER

IT IS HEREBY ORDERED that the Stipulated Protective Order is effective as of the date of this Order.



UNITED STATES MAGISTRATE JUDGE

DATED: April 13, 2023

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EXHIBIT A

KPG INVESTMENTS INC., v MARLENA SONN

Case No.: 3:22-cv-00236-ART-CLB

AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

I, the undersigned, declare under penalty of perjury that I have read and understand the Stipulated Protective Order in its entirety. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the District of Nevada for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of the law office of GUNDERSON LAW FIRM, and on the 13th day of April, 2023 I electronically filed the **AMENDED [PROPOSED] STIPULATED PROTECTIVE ORDER**, and a copy will be electronically mailed by the United States District Court-District of Nevada through CM/ECF to the following:

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Pursuant to FRCP 5(b), I further certify that I am an employee of the law office of GUNDERSON LAW FIRM, and on the 13th day of April, 2023, I deposited for mailing in Reno, Nevada a true and correct copy of the foregoing **AMENDED [PROPOSED] STIPULATED PROTECTIVE ORDER**, to the following:

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