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13 **UNITED STATES DISTRICT COURT**
 14 **CENTRAL DISTRICT OF CALIFORNIA**

15 ACI WORLDWIDE CORP. a
 16 Nebraska corporation, f/k/a ACI
 17 Worldwide (MA), Inc.,

Case No. 11-1435-JFW (DTBx)

18 Plaintiff,

**STIPULATED
 PROTECTIVE ORDER**

19 v.

Courtroom: 16
 Judge: John F. Walter

20 CITIZENS BUSINESS BANK, a
 21 California corporation,
 22 Defendant.

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 27 **JOINT STIPULATED PROTECTIVE ORDER, CASE NO. CV 11-01435 JFW (DTBX)**

1 Order shall survive and remain in full force and effect after the termination of this
2 litigation.

3 2. This Order will become effective upon the signature of counsel for
4 ACI and counsel for Bank and the approval of the U.S. Magistrate or his
5 designee.

6 3. Nothing in this Order shall limit or preclude any party from applying
7 to the Court to modify the terms of this Order or the status of any particular
8 information, document, or thing, or for relief from this Order, or for such further
9 or additional Protective Orders as the Court may deem appropriate.

10 4. Any party to this litigation, or any third party who elects to be
11 covered by this Order, who, during the course of the above-captioned proceeding,
12 produces or discloses any document, thing, information, or other item, including,
13 without limitation, any document, thing, interrogatory answer, deposition
14 testimony, and all other discovery as well as pleadings, briefs, memoranda, and -
15 to the extent permitted by the Court upon further motion - testimony adduced at
16 the hearing and materials introduced into evidence, and all other information
17 produced or furnished by or on behalf of any party to this Order or third party,
18 may designate that item as:

19 a. "CONFIDENTIAL" where such item contains confidential or
20 proprietary technical, scientific or business information, including, but not
21 necessarily limited to, current and future financial information and plans,
22 further business plans, and/or sales information, which is not generally
23 known and which the designating party would not normally reveal to third
24 parties or would cause third parties to maintain in confidence, or
25 information, the present disclosure of which would, in the good faith
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1 judgment of the designating party, be detrimental to the designating party
2 in the conduct of its business.

3 Information that exists in tangible form including discovery materials,
4 motions, memoranda of law and affidavits, shall be designated by visibly marking
5 it as "CONFIDENTIAL." In the event that the producing party elects to produce
6 original files and records for inspection and the inspecting party desires to inspect
7 these files and records, no marking need be made by the producing party in
8 advance of the initial inspection. For purposes of the initial inspection, all
9 documents within the produced files and records shall be considered as marked
10 "CONFIDENTIAL." Thereafter, upon selection of specified documents for
11 copying by the inspecting party, the producing party shall mark the copies of such
12 documents as "CONFIDENTIAL," as appropriate, prior to that party's producing
13 the copies to the inspecting party. Counsel shall agree on a mutually acceptable
14 manner for the identification of protected information that cannot be readily or
15 easily marked in a visible manner.

16 5. Information which becomes available to any party via inspection,
17 measurement, analysis, or testing of any sample or thing marked as provided in
18 Paragraph 4 received from another party, or prepared or derived by utilizing
19 information designated as "CONFIDENTIAL," and supplied pursuant to this
20 Order, shall also be considered to be, and treated as, "CONFIDENTIAL."

21 6. With respect to the deposition(s) of any deponent or any person
22 employed by, formerly employed by, or acting on behalf of a party to this action,
23 such deponent or party shall have until thirty (30) days after receipt of the
24 deposition transcript in which to inform the other parties that portions of the
25 transcript are designated "CONFIDENTIAL." Similarly, a third party deponent
26 shall have until thirty (30) days after receipt of his, her, or its deposition transcript

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1 in which to inform the parties that portions of the deposition transcript are
2 designated “CONFIDENTIAL.” The designating party shall send a written list of
3 the particular pages of the transcript that contain such information to all counsel
4 subject to this Order. No such deposition transcript shall be disclosed to any
5 person other than persons described in Paragraph 8 below (and qualified under
6 Paragraph 10, if necessary) and the deponent during these thirty (30) days. No
7 person attending such deposition shall disclose the contents of the deposition to
8 any person other than those qualified to receive information designated as
9 “CONFIDENTIAL” pursuant to this Order during said thirty (30) days. Upon
10 being informed that certain portions of a deposition are to be designated as
11 “CONFIDENTIAL,” each party shall cause each copy of the transcript in its
12 custody or control to be appropriately marked immediately.

13 7. All “CONFIDENTIAL” material shall not be used by any recipient
14 or disclosed to anyone for any purpose other than in connection with the above-
15 captioned action or any proceeding between the parties related to the same subject
16 matter as the above-captioned action and shall not be disclosed by the recipient to
17 anyone other than those persons designated (and qualified, if necessary) below, or
18 in Court filings with redactions made to those portions of the filings that include
19 “CONFIDENTIAL” material, unless and until the restrictions herein are removed
20 either by written agreement of counsel for the parties or by Order of the Court.

21 8. Access to materials or information designated by any party as
22 “CONFIDENTIAL” shall be restricted to the following persons
23 (“AUTHORIZED PERSONS”) on behalf of the receiving party:

24 a. Litigation counsel for ACI and litigation counsel for Bank and
25 their secretaries, paralegals, project assistants or staff, including local and
26 in-house counsel, of the parties in this action. Access to CONFIDENTIAL

27 **JOINT STIPULATED PROTECTIVE ORDER, CASE NO. CV 11-01435 JFW (DTBX)**

1 documents for outside counsel shall include access for their employees,
2 outside copy services, trial preparation firms, and graphics firms assisting
3 such counsel or the independent outside experts designated pursuant to
4 Paragraph 8(c);

5 b. Court personnel and stenographic reporters, engaging in such
6 proceedings as are necessarily incident to the preparation for trial (e.g.,
7 depositions) and/or trial of this action; and

8 c. Independent outside experts or independent outside
9 consultants retained by or on behalf of a party to assist outside counsel for
10 any party in the preparation for trial and/or trial of this action, and such
11 persons must become qualified to receive such materials and information in
12 accordance with the procedures in Paragraph 10 below before receiving
13 such information; and

14 d. Officers and employees who, before receiving such materials
15 or information, have signed an affidavit in the form of Exhibit A attached
16 hereto (“AUTHORIZED PERSONS”).

17 9. This Order shall not bar or otherwise restrict any attorney from
18 rendering advice to his or her client with respect to this litigation, and in the
19 course thereof, referring to or relying generally upon his or her examination of
20 documents or “CONFIDENTIAL” material provided, however, that in rendering
21 such advice and in otherwise communicating with his or her client, the attorney
22 shall not disclose the content or source of such “CONFIDENTIAL” information
23 contrary to the terms of this Order.

24 10. Every independent expert or consultant retained by any party for
25 purposes of this case, to whom all or part of any materials or information
26 designated as “CONFIDENTIAL” is disclosed, shall be shown this Order before

27 **JOINT STIPULATED PROTECTIVE ORDER, CASE NO. CV 11-01435 JFW (DTBX)**

1 disclosure of such materials or information and shall agree in writing, by signing
2 the affidavit agreement attached hereto as Exhibit A, which by this reference is
3 made a part hereof, to be bound by the terms of this Order with regard to any use
4 or disclosure to others of such confidential information, prior to receipt of such
5 confidential information. A duplicate original of said affidavit agreement will be
6 provided to each party for any such independent expert or consultant at such time
7 that it is determined that the independent expert or consultant's testimony will be
8 offered as evidence by the party that retained them.

9 11. In the event that a party receiving information that the other party
10 has designated "CONFIDENTIAL" disagrees with the propriety of that
11 designation, then the parties first will try, in good faith, to resolve such dispute on
12 an informal basis before presenting the dispute to the Court by motion, pursuant
13 to Local Rule 37-1. If the parties are unable to resolve the dispute, then the
14 challenging party may bring a motion pursuant to Local Rules 37-1 and 37-2,
15 which must meet the Rule 37-2's Joint Stipulation requirement. The Court then
16 may determine whether or not the information at issue should be considered
17 "CONFIDENTIAL" and, if so, may rule on what restrictions to access or
18 disclosure should be imposed. At the hearing on any such application, the party
19 designating the information "CONFIDENTIAL" shall have the burden of
20 establishing the confidentiality of the material so designated. All information
21 whose designation as "CONFIDENTIAL" has been disputed shall be treated as
22 designated by the producing party until such time as the Court determines or the
23 parties agree otherwise. No party shall be obligated to challenge the propriety of
24 the "CONFIDENTIAL" designation at the time of production. A failure to so
25 challenge the propriety of the "CONFIDENTIAL" designation at the time of
26 production shall not preclude a subsequent challenge to the propriety of such

27 **JOINT STIPULATED PROTECTIVE ORDER, CASE NO. CV 11-01435 JFW (DTBX)**

1 designation. Nothing shall prevent disclosure beyond the terms of this Order if
2 the party designating the “CONFIDENTIAL” material expressly consents to such
3 disclosure, either in writing or in the record of any proceeding in this action, or if
4 the Court, after notice to all affected parties, orders such disclosure.

5 12. This Order shall not bar or otherwise restrict:

6 a. a producing party from opposing production of any
7 information;

8 b. an “AUTHORIZED PERSON” from making abstracts, digests
9 and analyses of “CONFIDENTIAL” materials, so long as such abstracts,
10 digests and analyses are for use solely in connection with the evaluation or
11 defense of claims and/or defenses asserted in this action, providing such
12 abstracts, digest and analyses are marked with the appropriate designation
13 as “CONFIDENTIAL”;

14 c. an “AUTHORIZED PERSON” from rendering advice or
15 opinions with respect to this action to his/her client or employer based upon
16 his/her examination of “CONFIDENTIAL” materials, as long as such
17 person does not disclose any materials or information marked
18 “CONFIDENTIAL” to a person not authorized by this Order to have
19 access to it.

20 d. a producing party from using its own “CONFIDENTIAL”
21 materials in any manner it sees fit, or from revealing such materials or
22 information marked “CONFIDENTIAL” to whomever it chooses, without
23 the prior consent of any other party or order of the Court; or

24 e. a producing party from applying to the Court at any time for
25 additional protection or relief.

1 challenge the propriety thereof. This Order shall not be construed as a waiver of
2 any right to object to the furnishings of information in response to discovery.

3 20. Promptly after final termination of this action by judgment,
4 settlement, or otherwise, all "CONFIDENTIAL" information and materials
5 furnished or produced under the terms of this Order, including all copies thereof
6 and all documents incorporating such information, except all pleadings filed with
7 the Court, all exhibits marked in discovery or at trial, and materials which, in the
8 judgment of the attorney in possession of the materials, are work product
9 materials, shall be destroyed or delivered to the counsel for the designating party,
10 unless otherwise agreed in writing. Outside counsel for a party may retain all
11 materials in their files relating to this case, but in so doing must comply with the
12 terms of this Order, meaning that all "CONFIDENTIAL" information and
13 materials, including but not limited to the above-described pleadings, exhibits,
14 and work product materials, must be retained in confidence under the terms of
15 this Order.

16 August 29 ____, 2011



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UNITED STATES JUDGE

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27 **JOINT STIPULATED PROTECTIVE ORDER, CASE NO. CV 11-01435 JFW (DTBX)**

1 **Agreed as to form and content:**

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3 ACI WORLDWIDE CORP., Plaintiff, CITIZEN BUSINESS BANK, Defendant,
4

5 By: *s/*Gregory C. Scaglione

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14 and

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22 *Attorneys for Plaintiff*

By: *s/*Randall L. Manvitz

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Attorneys for Defendant

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EXHIBIT A

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ACI WORLDWIDE CORP. a
Nebraska corporation, f/k/a ACI
Worldwide (MA), Inc.,

Plaintiff,

v.

CITIZENS BUSINESS BANK, a
California corporation,

Defendant.

Case No. 11-1435-JFW (DTBx)

**CERTIFICATE OF COMPLIANCE
WITH PROTECTIVE ORDER**

STATE OF _____)
) ss.
COUNTY OF _____)

_____ hereby certifies that I have read and am fully familiar with the provisions of the Protective Order entered by the Court in the above-captioned matter, hereinafter referred to as the “Order.”

As condition precedent to my review or handling of any of the documents or other materials containing CONFIDENTIAL information produced pursuant to the Order or my obtaining any such information contained in said documents or other materials, I hereby agree to observe and comply with all of the provisions of the Order. I understand that the CONFIDENTIAL information and my copies or notes relating thereto may only be disclosed to or discussed with those persons permitted by the Order to receive such information.

JOINT STIPULATED PROTECTIVE ORDER, CASE NO. CV 11-01435 JFW (DTBX)

1 I hereby submit to the jurisdiction of this Court for the purposes of
2 enforcement of the Order and waive any and all objections to jurisdiction and
3 venue.

4 At the conclusion of this proceeding, I will return all materials
5 containing CONFIDENTIAL information, copies thereof and notes that I have
6 prepared relating thereto, to counsel of record.

7 I declare under penalty of perjury of the laws of the United States of
8 America that the foregoing is true and correct and that this Certificate of
9 Compliance is executed on the ____ day of _____, 2011 at [City or Town]
10 _____ and [State] _____.

11
12 Name: _____

13 Address: _____

14 _____

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16 Signature: _____

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18 SUBSCRIBED AND SWORN TO before me this _____ day of
19 _____ 2011.

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21 _____

22 Notary Public

23 (SEAL)

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27 **JOINT STIPULATED PROTECTIVE ORDER, CASE NO. CV 11-01435 JFW (DTBX)**

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