

1 PILLSBURY WINTHROP SHAW PITTMAN LLP
 2 RICHARD ZAITLEN (SBN 63283)
 3 richard.zaitlen@pillsburylaw.com
 4 EVAN FINKEL (SBN 100673)
 5 evan.finkel@pillsburylaw.com
 6 JAMES CHANG (SBN 271864)
 7 james.chang@pillsburylaw.com
 8 TIM RAWSON (SBN 304755)
 9 tim.rawson@pillsburylaw.com
 10 725 South Figueroa Street, Suite 2800
 11 Los Angeles, CA 90017-5406
 12 Telephone: 213.488.7100
 13 Facsimile: 213.629.1033

14 Attorneys for Plaintiff and
 15 Counter defendant GLOBERIDE, INC.

16 **(Counsel’s information cont. on p.2)**

17 UNITED STATES DISTRICT COURT
 18 CENTRAL DISTRICT OF CALIFORNIA

19 GLOBERIDE, INC.,
 20 Plaintiff,
 21 v.
 22 PURE FISHING, INC.,
 23 Defendant.

Case No. 2:15-CV-03000-R-SS

PROTECTIVE ORDER

Judge: Hon. Manuel L. Real
 CrtRm: 8

24 AND RELATED CROSS-ACTION.

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1 BRADLEY ARANT BOLT CUMMINGS LLP
2 PAUL SYKES (SBN ASB-4309-S52p)
3 psykes@babco.com
4 RUDY HILL
5 rhill@babco.com
6 1819 Fifth Avenue North
7 Birmingham, AL 35203
8 Telephone: 205-521-8766
9 Facsimile: 205-488-6766

10 ARENT FOX LLP
11 DAVID BAYLES (SBN 208112)
12 bayles.david@arentfox.com
13 GARY WOLENSKY (SBN 154041)
14 gary.wolensky@arentfox.com
15 555 West Fifth Street 48th Floor
16 Los Angeles, CA 90013-1065
17 Telephone: 213-629-7400
18 Facsimile: 213-629-7401

19 Attorneys for Defendant and
20 Counterclaimant PURE FISHING, INC.

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1 Pursuant to the Stipulation to Entry of Order Governing Use and
2 Dissemination of Confidential Information filed by Plaintiff Globberide, Inc.
3 and Defendant Pure Fishing, Inc., the Court hereby enters this Protective
4 Order (the “Order”) to protect confidential information and material that may
5 be produced or otherwise disclosed by the parties or third parties during the
6 course of discovery in this case and in order to facilitate the exchange of
7 information and documents that may be subject to confidentiality limitations
8 on disclosure due to federal laws, state laws, and privacy rights.

9 IT IS HEREBY ORDERED that:

10 1. No person subject to this Order may disclose information of any
11 kind produced or disclosed in the course of discovery or settlement
12 discussions in this action (hereinafter “Discovery Material”) which a Party has
13 designated as “Confidential” or “Confidential Attorneys Eyes Only”
14 (hereinafter “Confidential AEO”) pursuant to this Order to anyone else except
15 as this Order expressly permits.

16 2. The Party or person producing or disclosing Discovery Material
17 (hereinafter “Producing Party”) may designate as “Confidential” only the
18 portion of such material that it reasonably and in good faith believes consists
19 of:

- 20 (a) previously non-disclosed financial information (including
21 without limitation profitability reports or estimates,
22 percentage fees, royalty rates, minimum guarantee
23 payments, sales reports, and sale margins);
- 24 (b) previously non-disclosed material relating to ownership or
25 control of any non-public company;
- 26 (c) previously non-disclosed business plans, product-
27 development information, or marketing plans;

- 1 (d) any information of a personal or intimate nature regarding
2 any individual;
- 3 (e) information related to previously non-disclosed and/or
4 sensitive information regarding suppliers, manufacturers,
5 or other entities with which either Party has business
6 relations;
- 7 (f) any information that any Party reasonably and in good faith
8 believes would give a direct competitor an unfair business
9 advantage by virtue of disclosure of that information; or
- 10 (g) any other category of information this Court subsequently
11 affords confidential status.

12 3. A Producing Party may designate as “Confidential AEO” only the
13 portion of Discovery Material that it reasonably and in good faith believes
14 consists of highly sensitive and/or commercially competitive Discovery
15 Material, including but not limited to the types of information identified in
16 subparagraphs 2(a)-(g) above.

17 4. A Producing Party or its counsel may designate the confidential
18 portion of any Discovery Material other than deposition transcripts and
19 exhibits as “Confidential” or “Confidential AEO” by stamping or otherwise
20 clearly marking as “Confidential” or “Confidential AEO” the protected portion
21 in a manner that will not interfere with legibility or audibility.

22 5. A Producing Party or its counsel may designate deposition
23 exhibits or portions of deposition transcripts as Confidential Discovery
24 Material or Confidential AEO Discovery Material either by: (a) indicating on
25 the record during the deposition that a question calls for Confidential or
26 Confidential AEO information, in which case the reporter will bind the
27 transcript of the designated testimony in a separate volume and mark it as

1 “Confidential” or “Confidential AEO” and will indicate “Information
2 Governed by Protective Order” or (b) notifying the reporter and all counsel of
3 record, in writing, within this thirty (30) days after receiving a transcript of the
4 deposition, of the specific pages and lines of the transcript that are to be
5 designated “Confidential” or “Confidential AEO,” in which case all counsel
6 receiving the transcript will be responsible for marking the copies of the
7 designated transcript in their possession or under their control as directed by
8 the Producing Party or that person’s counsel. During the thirty (30) day period
9 following the Parties’ receipt of transcripts of the deposition, all Parties will
10 treat the entire deposition transcript as if it had been designated
11 “Confidential.”

12 6. If at any time before the close of the discovery period in this
13 action a Producing Party realizes that it should have designated as
14 “Confidential” or “Confidential AEO” some portion or portion(s) of
15 Discovery Material that it previously produced without limitation, the
16 Producing Party may so designate such material by so apprising all prior
17 recipients in writing. Thereafter, all persons subject to this Order will treat
18 such designated portion(s) of the Discovery Material as “Confidential” or
19 “Confidential AEO.” To the extent belatedly-designated “Confidential” or
20 “Confidential AEO” Discovery Material was previously submitted in a filing
21 or motion, the party submitting the filing shall cooperate with the designating
22 party in any motion or request to the Court to seal such information, in
23 accordance with the Court’s rules and procedures. Nothing herein shall
24 prevent a party from challenging the propriety of the belated designation of the
25 documents in accordance with paragraph 13 below.

26 7. Nothing contained in this Order will be construed as: (a) a waiver
27 by a Party or person of its right to object to any discovery request; (b) a waiver

1 of any privilege or protection; or (c) a ruling regarding the admissibility at trial
2 of any document, testimony or other evidence. Without limiting the
3 foregoing, the production of documents subject to work product protection,
4 trade secret protection, the attorney-client privilege or other privilege or
5 protection provided by law shall not constitute a waiver of the protection or
6 privilege, provided that the Producing Party (or the party holding the privilege
7 or protection if produced by a third party, such as an outside law firm)
8 promptly after learning of the production notifies the party to whom the
9 Discovery Material was produced (the "Receiving Party") in writing that it
10 intends to assert privilege or other protection with regard to such production.
11 No party to this Action thereafter shall assert that such inadvertent disclosure
12 alone waived any privilege or protection. Absent court order or agreement of
13 the parties to the contrary, no use shall be made of such documents during
14 deposition, at trial, or in any filing or motion, nor shall they be shown to
15 anyone who was not given access to them prior to the request to return or
16 destroy them. Any Receiving Party will return or destroy such inadvertently
17 produced items and all copies within five (5) business days of receiving a
18 written request from the Producing Party for the return or destruction of such
19 items and certify such return or destruction in writing to the Producing Party,
20 and provide written confirmation of compliance. The return of such items
21 shall not be construed as an agreement by the returning party that the
22 information is, in fact, protected by any privilege or immunity. Within seven
23 (7) days of receiving written confirmation from any Receiving Party, the
24 Producing Party must serve a supplemental privilege log covering the
25 privileged or otherwise protected matter produced. The Receiving Party,
26 having so returned the items, may thereafter seek production of any such
27 documents in accordance with the Federal Rules of Civil Procedure (without

1 asserting waiver based solely on their inadvertent production). Nothing in this
2 Order shall (i) prevent the Receiving Party from challenging the propriety of
3 the attorney-client privilege or other privilege or protection asserted by
4 submitting a written challenge to the Court in accordance with paragraph 13
5 below or any other applicable rule or statute; or (ii) be construed to require the
6 production of any information, document, electronically stored information or
7 thing that a party contends is protected from disclosure by any privilege or
8 protection. To the extent applicable, Federal Rule of Evidence 502(d) shall
9 apply.

10 8. Where a Producing Party has designated Discovery Material as
11 “Confidential,” other persons subject to this Order may disclose such
12 information only to the following persons:

- 13 (a) A maximum of four (4) employees of the Parties to this
14 action, the Parties’ insurers, and counsel to their insurers;
15 (b) counsel retained specifically for this action, including any
16 paralegal, clerical, or other assistant that such outside
17 counsel employs and assigns to this matter;
18 (c) outside vendors or service providers (such as copy service
19 providers and document management consultants) that
20 counsel hire and assign to this matter, provided such
21 persons or entities have first been notified of this
22 Confidentiality Agreement and Protective Order;
23 (d) any mediator or arbitrator that the Parties engage in this
24 matter or that this Court appoints, provided such person has
25 first executed a Nondisclosure Agreement;
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- 1 (e) as to any document, its author, its addressee, and any other
2 person indicated on the face of the document as having
3 received a copy;
- 4 (f) any witness who counsel for a Party in good faith believes
5 may be called to testify at trial or deposition in this action,
6 provided such person has first executed a Nondisclosure
7 Agreement;
- 8 (g) any person a Party retains to serve as an expert witness or
9 to otherwise provide specialized advice to counsel or a
10 Party in connection with this action and/or settlement of
11 this action (through a potential business arrangement or
12 otherwise), including but not limited to outside counsel,
13 consultants, accountants and other financial professionals,
14 provided such person has first executed a Nondisclosure
15 Agreement;
- 16 (h) stenographers engaged to transcribe depositions the Parties
17 conduct in this action; and
- 18 (i) this Court, including any appellate court, its support
19 personnel, and court reporters.

20 9. Where a Producing Party has designated Discovery Material as
21 “Confidential AEO,” other persons subject to this Order may disclose such
22 information only to the following persons:

- 23 (a) counsel retained specifically for this action, including any
24 paralegal;
- 25 (b) outside vendors or service providers (such as copy service
26 providers and document management consultants) that
27 counsel hire and assign to this matter, provided such
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1 persons or entities have first been notified of this
2 Confidentiality Agreement and Protective Order;

3 (c) any mediator or arbitrator that the Parties engage in this
4 matter or that this Court appoints, provided such person has
5 first executed a Nondisclosure Agreement;

6 (d) as to any document, its author, its addressee, and any other
7 person indicated on the face of the document as having
8 received a copy;

9 (e) any person a Party retains to serve as an expert witness or
10 to otherwise provide specialized advice to counsel or a
11 Party in connection with this action and/or settlement of
12 this action (through a potential business arrangement or
13 otherwise), including but not limited to outside counsel,
14 consultants, accountants and other financial professionals,
15 provided such person has first executed a Nondisclosure
16 Agreement;

17 (f) stenographers engaged to transcribe depositions the Parties
18 conduct in this action; and

19 (g) this Court, including any appellate court, its support
20 personnel, and court reporters.

21 10. Before disclosing any “Confidential” or “Confidential AEO”
22 Discovery Material to any person referred to in subparagraphs 8(d), (f), or (g),
23 or 9(d) or (f), counsel must provide a copy of this Order to such person, who
24 must sign the Nondisclosure Agreement attached hereto as Exhibit “A” stating
25 that he or she has read this Order and agrees to be bound by its terms. Said
26 counsel must retain each signed Nondisclosure Agreement, hold it in escrow,
27 and produce it to opposing counsel either before such person is permitted to
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1 testify (at deposition or trial) or at the conclusion of the case, whichever comes
2 first.

3 11. This Court retains discretion as to whether to afford confidential
4 treatment to any Discovery Material designated as “Confidential” or
5 “Confidential AEO” and submitted to the Court in connection with any
6 motion, application, or proceeding that may result in an order and/or decision
7 by the Court.

8 12. If the Parties desire to file “Confidential” or “Confidential AEO”
9 Discovery Material with this Court, or any portions of any pleadings, motions,
10 or other papers that disclose such “Confidential” or “Confidential AEO”
11 Discovery Material (“Confidential Court Submission”), the Parties shall
12 follow the procedures required by Local Rule 79-5, effective December 1,
13 2015, to request permission to file Confidential Court Submissions under seal,
14 and to effect service of the same.

15 13. Any Party who objects to any designation of confidentiality may
16 at any time within the discovery period established by the District Judge to
17 which this action is assigned, serve upon counsel for the Producing Party a
18 written notice stating with particularity the grounds of the objection. If the
19 Parties cannot reach agreement promptly, counsel for all affected Parties will
20 address their dispute to this Court pursuant to the procedure set forth in
21 Central District of California Local Rule 37.

22 14. Recipients of “Confidential” or “Confidential AEO” Discovery
23 Material under this Order may use such material solely for the prosecution and
24 defense of this action and any appeals thereto, and for the purpose of assessing
25 settlement of this action, and not for any business, commercial, or competitive
26 propose or in any other litigation proceeding. Nothing contained in this Order,
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1 however, will affect or restrict the rights of any Party with respect to its own
2 documents or information produced in this action.

3 15. Nothing in this Order will prevent any Party from producing any
4 “Confidential” or “Confidential AEO” Discovery Material in its possession in
5 response to a lawful subpoena or other compulsory process, or if required to
6 produce it by law or by any government agency having jurisdiction, provided
7 that such Party gives written notice to the Producing Party as soon as
8 reasonably possible, and if permitted by the time allowed under the request, at
9 least ten (10) days before any disclosure. Upon receiving such notice, the
10 Producing Party will bear the burden to oppose compliance with the subpoena,
11 other compulsory process, or other legal notice if the Producing Party deems it
12 appropriate to do so.

13 16. Each person who has access to Discovery Material designated as
14 “Confidential” or “Confidential AEO” pursuant to this Order must take all due
15 precautions to prevent the unauthorized or inadvertent disclosure of such
16 material.

17 17. The Parties agree that privileged or protected communications
18 occurring on or after December 20, 2012, need not be recorded on the Party’s
19 privilege log.

20 18. Within sixty (60) days of the final disposition of this action -
21 including all appeals – all recipients of “Confidential” or “Confidential AEO”
22 Discovery Material must either return the material – including all copies
23 thereof-to the Producing Party, or, upon permission of the Producing Party,
24 destroy such material-including all copies thereof, and provide evidence of
25 such destruction to the Producing Party. In either event, by the sixty (60) day
26 deadline, the recipient must certify its return or destruction by submitting a
27 written certification to the Producing Party that affirms that it has not retained

1 any copies, abstracts, compilations, summaries, or other forms of reproducing
2 or capturing any of the “Confidential” or “Confidential AEO” Discovery
3 Material. Notwithstanding this provision, the attorneys that the Parties have
4 specifically retained for this action may retain an archival copy of all
5 pleadings, motion papers, transcripts, expert reports, legal memoranda,
6 correspondence, or attorney work product, even if such materials contain
7 “Confidential” or “Confidential AEO” Discovery Material. Any such archival
8 copies that contain or constitute “Confidential” or “Confidential AEO”
9 Discovery Material remain subject to this Order.

10 19. The Parties agree and acknowledge that the terms of this Order
11 will continue throughout trial of this matter and shall survive the termination
12 of the litigation, notwithstanding the Court’s lack of jurisdiction from the date
13 of commencement of trial.

14 20. The Parties acknowledge that any disclosure or exchange of
15 “Confidential” or “Confidential AEO” Discovery Material that has occurred
16 prior to the date of entry of this Order is subject to this Agreement.

17 21. This Court will retain jurisdiction over all persons subject to this
18 Order to the extent necessary to enforce any obligations arising hereunder or
19 to impose sanctions for any contempt thereof.

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ORDER

GOOD CAUSE appearing, the Court hereby enters this Stipulation and Protective Order.

IT IS SO ORDERED:

Dated: January 20, 2016



Honorable Manuel L. Real
United States District Judge

1 **Attachment "A"**

2 **NONDISCLOSURE AGREEMENT**

3 I, _____, state that:

4 1. My address is

5 _____

6 2. My present employer is

7 _____

8 3. My present occupation or job description is

9 _____

10 4. I have received a copy of the Protective Order entered in the case
11 of *Globeride, Inc. v. Pure Fishing, Inc.*, United States District Court – Central
12 District of California Case No. 2:15-CV-03000-R-SS.

13 5. I have read and understand the Order Governing Use and
14 Dissemination of Confidential Information (the "Order"). I hereby agree to
15 comply with all of the terms of the Order, including holding in confidence and
16 not disclosing to any unqualified person all documents, things, or information
17 designated "CONFIDENTIAL" or "CONFIDENTIAL ATTORNEYS EYES
18 ONLY."

19 6. I hereby expressly covenant that I will only use the documents,
20 things, or information designated as "CONFIDENTIAL" or
21 "CONFIDENTIAL ATTORNEYS EYES ONLY" in connection with the
22 above-referenced litigation and that I will not use such documents, things, or
23 information for any other purpose. Further, I expressly covenant that I will
24 not use such documents, things, or information for the benefit of myself or any
25 other person or entity.

26 7. Within sixty (60) days of notice by any Party that this litigation is
27 over, or that my involvement is no longer deemed necessary, I expressly

1 covenant that I will return all information and materials provided to me with
2 the designation of “CONFIDENTIAL” or “CONFIDENTIAL ATTORNEYS
3 EYES ONLY.” I will also provide a Declaration, submitted under penalty of
4 perjury, which identifies by Bates Number, the information and materials that
5 I am returning.

6 8. I hereby consent to the jurisdiction of the United States District
7 Court – Central District of California for the purpose of enforcing the Order
8 and this agreement to be bound thereby.

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Dated: _____

Signature

Print Name