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22 (COUNSEL CONTINUED ON NEXT PAGE)

23 **UNITED STATES DISTRICT COURT**
 24 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

25 WINTRUST MORTGAGE, a division of
 26 Barrington Bank and Trust, N.A., a national
 27 bank authorized to do business in California,

28 Plaintiff,

v.

JEFFREY WETTSTEIN, an individual,
 MICHAEL SHARA, an individual,
 JACQUELINE SCHULTE, an individual,
 CYNTHIA EYANSON, an individual, and
 ANGEL OAK HOME LOANS, LLC, a
 limited liability company,

Defendant.

Case No.: 2:16-cv-06441-ODW-JEM
 Assigned to the Honorable Otis D.
 Wright

**[PROPOSED] PROTECTIVE
 ORDER**

DISCOVERY MATTER

Filing Date: August 26, 2016
 Trial Date: March 27, 2018
 Discovery Cut-off: December 22, 2017
 Motion Cut-off: February 5, 2018

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10 JACQUELINE SCHULTE and CYNTHIA EYANSON

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1 The Court, having reviewed the Stipulated Protective Order entered into
2 among Plaintiff Wintrust Mortgage and Defendants Angel Oak Home Loans, LLC,
3 Jeffrey Wettstein, Michael Shara, Jacqueline Schulte and Cynthia Eyanson, finds
4 that good cause exists to enter an order approving said Stipulated Protective Order.

5 Accordingly, IT IS HEREBY ORDERED as follows:

6 1. This Order shall govern all items or information, regardless of
7 the medium or manner in which they are generated, stored, or maintained
8 (including, among other things, testimony, transcripts, and tangible things), that
9 are produced or generated in disclosures or in response to discovery in this
10 litigation (“Discovery Materials”).

11 2. Any party to this litigation shall have the right to designate
12 Discovery Materials as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL”
13 pursuant to the terms of this Order. Discovery Materials designated
14 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” will be referred to as
15 “Designated Materials.” Any third party producing documents pursuant to a
16 subpoena or otherwise may designate Discovery Materials pursuant to this Order
17 only if an authorized representative of the producing third party executes a
18 written acknowledgment, substantially in the form of Exhibit 1 annexed to this
19 Order, that the non-party has reviewed a copy of this Order, will comply with its
20 terms, and will submit to adjudication of any dispute regarding that third-party’s
21 designations under this Order, enforceable by and subject to the jurisdiction of
22 the District Court as may be necessary.

23 a. All designations must be made in good faith and on
24 reasonable belief that the information or item being designated accurately
25 meets the definition of “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”

26 b. A party or non-party that designates Discovery Materials
27 as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” (“Designating
28 Party”) must designate for protection, where practicable, only those parts

1 of the material, documents, items, or communications that qualify so that
2 other portions of the material, documents, items, or communications for
3 which protection is not warranted are not swept unjustifiably within the
4 ambit of this Order.

5 c. Except as otherwise provided in this Order, *e.g.*, with
6 respect to deposition testimony as provided in Section 9(b) below, or as
7 otherwise stipulated or ordered, disclosure of Discovery Materials that
8 qualify for protection under this Order must be clearly so designated
9 before being disclosed or produced.

10 d. Materials marked “CONFIDENTIAL” shall be non-
11 public Discovery Materials that the “Designating Party” in good faith
12 believes qualify for protection under Rule 26(c) of the Federal Rules of
13 Civil Procedure, including, but not limited to, trade secrets or other
14 confidential research, development, or commercial information.

15 e. Materials marked “HIGHLY CONFIDENTIAL” shall be
16 highly sensitive non-public Discovery Materials, disclosure of which to
17 another Party or Non-Party would create a substantial risk of serious harm
18 to the Designating Party’s competitive position or otherwise reveal
19 internal business, sensitive private or strategic information whose
20 disclosure could prejudice the Designating Party.

21 3. The party that receives Discovery Materials or Designated
22 Materials (“Receiving Party”) shall use the Discovery Materials or Designated
23 Materials solely for purposes of this litigation or the parallel arbitration
24 proceeding among the parties, but not for any other purpose whatsoever
25 (including that such materials may not be disseminated to the media or general
26 public).

27 4. Unless otherwise ordered by the Court or permitted in writing
28 by the Designating Party, the Receiving Party may disclose materials marked

1 “CONFIDENTIAL” only to:

2 a. any individual who is a party; any officer, director, or
3 employee (including in-house counsel) of a party; or any former officer,
4 director, or employee of a party to whom it is deemed reasonably
5 necessary that the Designated Materials be shown for purposes of the
6 litigation and who has executed the “Acknowledgement and Agreement to
7 Be Bound” (Exhibit 1) before being provided the Designated Materials;

8 b. the Receiving Party’s outside counsel, and employees of
9 and independent contractors for outside counsel that are engaged in work
10 for such counsel necessary to assist in this litigation. The term “outside
11 counsel” shall mean the attorneys and their firms who have entered an
12 appearance in this case;

13 c. persons retained by a party or its counsel to serve as an
14 expert witness or a consultant in this litigation to whom disclosure is
15 reasonably necessary for this litigation and who have executed the
16 “Acknowledgement and Agreement to Be Bound” (Exhibit 1) before being
17 provided the Designated Materials. Counsel for the party retaining the
18 expert shall maintain custody of the executed “Acknowledgement and
19 Agreement to Be Bound” and shall produce a copy to any other party’s
20 counsel upon request;

21 d. witnesses in the course of deposition where counsel has a
22 reasonable and good faith belief that examination with respect to the
23 Designated Materials is necessary, and any person being prepared to
24 testify where counsel has a reasonable and good faith belief that such person
25 will be a witness in this action and that his examination with respect to the
26 Designated Materials is necessary in connection with such testimony;
27 persons to whom Designated Materials are disclosed pursuant to this
28 subparagraph may not be permitted to retain copies of the

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Designated Materials;

e. any authorized representative of an insurer or other person providing or potentially providing indemnity with regard to the litigation, provided that any such person shall be advised that they are subject to the terms of this Order before being provided Designated Materials;

f. the author or recipient of the Designated Materials or a custodian or other person who otherwise possessed or knew the information contained or reflected in the Designated Materials;

g. court reporters and their staff, persons preparing transcripts of depositions, professional trial consultants, and professional vendors to whom disclosure is reasonably necessary for this litigation and who have executed the “Acknowledgement and Agreement to Be Bound” (Exhibit 1) before being provided the Designated Materials; and

h. the Court and personnel associated with Court;

5. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, the Receiving Party may disclose materials marked “HIGHLY CONFIDENTIAL” only to:

a. Individuals described in Paragraphs 4(b)-(c), (e)-(h) above; and

b. Designated in-house counsel (or their staff) of the Receiving Party (1) who has no involvement in competitive decision-making, (2) to whom disclosure is reasonably necessary for this litigation, and (3) who has executed the “Acknowledgment and Agreement to Be Bound” (Exhibit 1).

6. Persons who are authorized to review Designated Materials shall hold such materials in confidence and shall not disclose their contents, either orally or in writing, to any person not otherwise authorized to receive such information under this Order, or otherwise required by law. Copies of

1 Designated Materials shall be made only to the extent necessary to facilitate
2 permitted use under this Order.

3 7. The recipient of Designated Materials provided under this
4 Order shall maintain such information in a secure and safe area and shall
5 exercise the same standard of due and proper care with respect to the storage,
6 custody, use or dissemination of such information as is exercised by the
7 recipient with respect to its own proprietary information. Designated Materials
8 shall not be copied, reproduced, summarized or abstracted, except to the extent
9 that such copying, reproduction, summary or abstraction is reasonably necessary
10 for purposes related to this lawsuit. All such copies, reproductions, summaries,
11 extractions, and abstractions shall be subject to the terms of this Order, and
12 labeled in the same manner as the Designated Materials on which they are
13 based.

14 8. In the event a party deems it necessary or appropriate to
15 disclose any Designated Materials to any person not specified in Paragraphs 4 or
16 5, that party shall notify counsel for the Designating Party in writing of: (i) the
17 Designated Materials it wishes to disclose, and (ii) the person or persons to
18 whom such disclosure is to be made. The proposed disclosure shall not be made
19 absent written permission of the Designating Party, unless the party wishing to
20 make the proposed disclosure obtains an order from the Court permitting the
21 proposed disclosure. Counsel shall obtain from all persons to whom disclosures
22 are made pursuant to this Paragraph 8 a written acknowledgement, substantially
23 in the form of Exhibit 1 attached hereto, that such person or persons have
24 reviewed a copy of this Order, will comply with its terms in all respects, and
25 agrees to jurisdiction and adjudication by this Court of any dispute about
26 whether such person or persons have complied with the terms of this Order.

27 9. In the event of any inadvertent disclosure of attorney-client
28 privileged information or information subject to the attorney work product

1 doctrine or any other privilege, the party making such inadvertent disclosure,
2 after learning of such inadvertent disclosure, shall immediately notify the party
3 to whom the inadvertent disclosure was made; the obligations of the Receiving
4 Party are those set forth in Rule 26(b)(5)(B) of the Federal Rules of Civil
5 Procedure.

6 10. The Designating Party shall designate Discovery Materials
7 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” as follows:

8 a. for information in documentary form (*e.g.*, paper or
9 electronic documents, but excluding transcripts of depositions),
10 designation shall be made by placing the following legend
11 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” on each page that
12 contains protected material prior to production; if only a portion or
13 portions of the material on a page qualifies for protection, the Designating
14 Party also must clearly identify the protected portion(s) (*e.g.*, by making
15 appropriate markings in the margins);

16 b. for testimony given in deposition, designation of the
17 portion of the transcript (including exhibits) as “CONFIDENTIAL” or
18 “HIGHLY CONFIDENTIAL” shall be made by a statement to such effect
19 on the record in the course of the deposition or, upon review of such
20 transcript, by counsel for the party to whose protected material the
21 deponent has had access. If a portion of a deposition is designated as
22 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” before the
23 deposition is transcribed, the transcript containing or reflecting protected
24 materials shall be bound in a separate volume marked “CONFIDENTIAL”
25 or “HIGHLY CONFIDENTIAL” as appropriate. If a portion of a
26 deposition is designated as “CONFIDENTIAL” or “HIGHLY
27 CONFIDENTIAL” during the course of a deposition, counsel may request
28 all persons, except persons entitled to receive Designated Materials

1 pursuant to this Order, to leave the room while the deposition is
2 proceeding until completion of the answer or answers containing protected
3 materials. If a portion of a deposition is designated as
4 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” after the deposition
5 is transcribed, counsel shall list on a separate piece of paper the page
6 numbers of the transcript containing protected material and shall mail
7 copies of the list to counsel for all parties within ten (10) days after receipt
8 of the certified transcript from the court reporter so that it may be affixed
9 to the face of the transcript and each copy thereof. Pending such
10 designation by counsel after the deposition is transcribed, only those
11 portions of the transcript designated “CONFIDENTIAL” or “HIGHLY
12 CONFIDENTIAL” on the record in the course of the deposition shall be
13 treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” as
14 applicable; and

15 c. for information produced in non-paper media (*e.g.*,
16 videotape, audiotape, and computer disk), designation shall be made by
17 affixing in a prominent place on the exterior of the container or containers
18 in which in the information or item is stored the legend
19 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.” In the event a
20 Receiving Party generates any “hard copy,” transcription, or printout from
21 any such designated non-paper media, such party must stamp each page
22 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” and the hard copy,
23 transcription, or printout shall be treated as it is designated.

24 11. For Court filings, the parties shall use their best efforts to
25 include Designated Materials only when absolutely necessary and shall only file
26 versions of sealed filings permitted by the Court that redact any portions of
27 those filings that contain or reflect Designated Materials. Until the Court has
28 ruled on a motion to seal, no materials containing Designated Materials

1 proposed to be filed with the Court under seal shall be disclosed to any person
2 except as provided in this Order. If the Court grants the motion to file under
3 seal, the documents shall remain under seal and shall not be disclosed except as
4 provided in this Order or other Order of the Court. A complete, unredacted set
5 of documents filed under seal shall be provided by the filing party to opposing
6 counsel.

7 12. If timely corrected, an inadvertent failure to designate
8 qualified information or items as “CONFIDENTIAL” or “HIGHLY
9 CONFIDENTIAL” does not, standing alone, waive the Designating Party’s right
10 to secure protection under this Order for such information or items. If the
11 information or items is appropriately designated as “CONFIDENTIAL” or
12 “HIGHLY CONFIDENTIAL” after it was initially produced, the Receiving
13 Party, upon timely notification of the designation, must make reasonable efforts
14 to assure that the Designated Materials are treated in accordance with the
15 provisions of this Order.

16 13. A party shall not be obligated to challenge the propriety of a
17 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” designation at the time
18 made, and failure to do so shall not preclude a subsequent challenge thereto during
19 the pendency of this litigation. In the event that any party to this litigation
20 disagrees at any stage of these proceedings with such designation (“Challenging
21 Party”), such party shall provide to the Designating Party written notice of its
22 disagreement with the designation. The parties shall first try to dispose of such
23 dispute in good faith on an informal basis. If the dispute cannot be resolved, the
24 Designating Party may file a motion requesting that the Court determine whether
25 the disputed material shall be treated as “CONFIDENTIAL” or “HIGHLY
26 CONFIDENTIAL” under the Order. The Designating Party shall have the burden
27 of proving that the information or item has been properly designated as
28 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL”. Discovery Material

1 designated as Designated Materials shall retain this status until such time as either:
2 (a) the parties expressly agree otherwise in writing, or (b) the Court orders
3 otherwise, unless such order is stayed pending appellate review.

4 14. In the event that any Designated Materials are used in any court or
5 arbitration proceeding in connection with this litigation, they shall not lose their
6 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” status through such use, and
7 the parties shall take all steps reasonably required to protect their confidentiality
8 during such use. Likewise, in the event any Designated Materials are used in any
9 subsequent proceeding in court, they shall not lose their “CONFIDENTIAL” or
10 “HIGHLY CONFIDENTIAL” status through such use.

11 15. If Designated Materials are disclosed to any person other than
12 in the manner authorized by this Order, the person responsible for the disclosure
13 must immediately bring all pertinent facts relating to such disclosure to the
14 attention of counsel for the Designating Party and, without prejudice to any
15 other rights and remedies of the parties, make every effort to prevent further
16 disclosure by it or by the person who was the recipient of such information.

17 16. In the event any Receiving Party having possession, custody,
18 or control of any Discovery Materials provided by the Designating Party
19 receives a subpoena or other process or order to produce in another legal
20 proceeding the Discovery Materials, such Receiving Party shall promptly notify
21 counsel for the Designating Party of the subpoena or other process or order,
22 furnish counsel for the Designating Party with a copy of said subpoena or other
23 process or order, and cooperate with respect to all reasonable procedures sought
24 to be pursued by the Designating Party whose interests may be affected. The
25 Designating Party shall have the burden of defending against such subpoena or
26 other process or order. The Receiving Party shall be entitled to comply with the
27 subpoena or other process or order unless the Designating Party has notified the
28 Receiving Party prior to the production date identified in the subpoena or other

1 process or order that it has filed a motion seeking to modify, quash, or otherwise
2 prevent the disclosure of the information sought. The Designating Party will
3 thereafter promptly inform the Receiving Party of the court's order on the
4 subject motion so the Receiving Party can promptly comply with the terms of
5 the order. Notwithstanding the foregoing or anything else in this Order, nothing
6 in this Order shall be construed as authorizing a party to disobey a lawful
7 subpoena issued in another action.

8 17. Entering into, agreeing to, or producing or receiving
9 information designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL"
10 or otherwise complying with the terms of this Order shall not:

11 a. operate as an admission by any party that any material
12 designated by another party or non-party actually contains or reflects trade
13 secrets or other confidential information;

14 b. reduce in any way the rights of the parties or non-parties
15 from whom discovery may be sought to object to a request for discovery
16 or to the production of documents or materials that they may consider not
17 subject to discovery or privileged from discovery;

18 c. prejudice in any way the rights of any party to object to
19 the authenticity or admissibility of any document, materials, or testimony
20 that is subject to this Order;

21 d. prejudice in any way the rights of any party to seek a
22 determination by the Court as to the appropriateness of a designation; or

23 e. prevent the parties from agreeing to alter or waive the
24 protections or remedies provided in this Order with respect to any
25 particular Designated Materials or Discovery Materials, provided that such
26 agreement, alteration, or waiver is in writing and signed by both parties.
27 No modification of this Order by the parties shall have the force or effect
28 of a court order unless the Court approves the modification.

1 18. This Order is without prejudice to the right of any party to
2 seek relief from the Court, upon good cause shown, from any of the provisions
3 contained in this Order.

4 19. Nothing contained herein shall preclude a producing party or
5 non-party from using his, her, or its own confidential information, documents, or
6 materials in any manner he, she, or it sees fit, or from revealing such confidential
7 information, documents, or materials to whomever he, she, or it chooses.

8 20. After termination of this action, the restrictions on the
9 communication and disclosure provided for herein shall continue to be binding
10 upon the parties and all other persons to whom Designated Materials or information
11 contained therein has been communicated or disclosed pursuant to the provisions of
12 this Order or any other Order of the Court. The Court shall retain continuing
13 jurisdiction to enforce the terms of this Order as may be necessary.

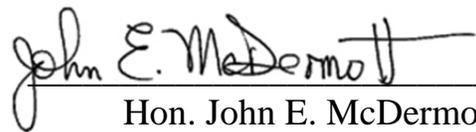
14 21. All Designated Material subject to this Order shall be returned
15 to the Designating Parties upon termination of this action (or, upon written
16 permission by the Designating Party, destroyed). Termination of this action shall be
17 taken and construed as the date forty-five (45) days following (a) the filing of a
18 stipulated dismissal or the entry of a voluntary dismissal; (b) a final non-
19 appealable order disposing of this case; or (c) the expiration of the time for any
20 appeal. Upon such termination, counsel of record for the Receiving Party shall
21 notify counsel for the Designating Party of compliance. Counsel for the Receiving
22 Party shall make a reasonable effort to retrieve any documents or information
23 subject to this Order from any person to whom such information has been given, and
24 shall notify counsel for the Designating Party of the failure to retrieve any such
25 information. Nothing in this paragraph shall preclude outside counsel from
26 retaining after termination of this action a copy of pleadings, motions, and
27 memoranda filed with the Court, and/or attorney work product, *provided*,
28 *however*, that such counsel may not disclose retained materials that contain

1 Designated Materials to any other person and shall keep such retained materials
2 in a manner reflecting their confidential nature.

3 22. Good Cause – Good Cause exists for entering this Protective
4 Order because the materials protected hereby have been narrowly defined to
5 include trade secret, confidential and proprietary, and/or privileged information.
6 Such confidential information is generally not made available to the public, and
7 its disclosure could cause serious and irreparable harm to one or more of the
8 parties to this action and/or to other third parties.

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10 **IT IS SO ORDERED.**

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12 Dated: February 2, 2017

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Hon. John E. McDermott
Magistrate Judge