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*Fund Recovery Services LLC*

11 UNITED STATES DISTRICT COURT  
 12 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 13 WESTERN DIVISION

14 FUND RECOVERY SERVICES LLC,  
 15  
 16 Plaintiff,

17 v.

18 SHORESIDE SPV FUNDING I, LLC;  
 SHORESIDE LOANS, LLC; DYLAN  
 19 C. COHEN; RICHARD COHEN;  
 NANCY COHEN; KATHY COHEN;  
 20 SHORESIDE SPV FUNDING II, LLC;  
 SHORESIDE CAPITAL, LLC; FPH  
 CAPITAL PARTNERS, NAVIN  
 21 NARANG, BRAD BARLOW, JOHN  
 or JANE DOES, 1 through 10, and  
 22 ABC CORPORATIONS, 1 through 10,

23 Defendants.  
 24

Electronically Filed

Case No. 2:16-cv-06954-SJO-JC

Honorable James Otero  
 Crtrm.: Courtroom 10C

**ORDER GRANTING STIPULATED  
 PROTECTIVE ORDER**

Original Verified Complaint Filed:  
 September 15, 2016

Assigned to: Hon. S. James Otero

Magistrate Judge: Hon. Jacqueline  
 Chooljian

25  
 26 The Court, having reviewed the parties' Stipulated Protective Order, hereby  
 27 ENTERS the following Protective Order:  
 28

1     1.     A. PURPOSES AND LIMITATIONS

2             As the parties have represented that discovery in this action is likely to  
3 involve production of confidential, proprietary, or private information for which  
4 special protection from public disclosure and from use for any purpose other than  
5 prosecuting this litigation may be warranted, this Court enters the following  
6 Protective Order. This Order does not confer blanket protections on all disclosures  
7 or responses to discovery. The protection it affords from public disclosure and use  
8 extends only to the limited information or items that are entitled to confidential  
9 treatment under the applicable legal principles. Further, as set forth in Section 12.3,  
10 below, this Protective Order does not entitle the parties to file confidential  
11 information under seal. Rather, when the parties seek permission from the court to  
12 file material under seal, the parties must comply with Civil Local Rule 79-5 and  
13 with any pertinent orders of the assigned District Judge and Magistrate Judge.

14             B. GOOD CAUSE STATEMENT

15             In light of the nature of the claims and allegations in this case and the parties'  
16 representations that discovery in this case will involve the production of  
17 confidential records, and in order to expedite the flow of information, to facilitate  
18 the prompt resolution of disputes over confidentiality of discovery materials, to  
19 adequately protect information the parties are entitled to keep confidential, to  
20 ensure that the parties are permitted reasonable necessary uses of such material in  
21 connection with this action, to address their handling of such material at the end of  
22 the litigation, and to serve the ends of justice, a protective order for such  
23 information is justified in this matter. The parties shall not designate any  
24 information/documents as confidential without a good faith belief that such  
25 information/documents have been maintained in a confidential, non-public manner,  
26 and that there is good cause or a compelling reason why it should not be part of the  
27 public record of this case.

28

1     2.     DEFINITIONS

2           2.1     Action: The instant action: Case No. 2:16-cv-06954-SJO-JC.

3           2.2     Challenging Party: a Party or Non-Party that challenges the  
4 designation of information or items under this Order.

5           2.3     “CONFIDENTIAL” Information or Items: information (regardless of  
6 how it is generated, stored or maintained) or tangible things that qualify for  
7 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
8 the Good Cause Statement.

9           2.4     Counsel: Outside Counsel of Record and House Counsel (as well as  
10 their support staff).

11          2.5     Designating Party: a Party or Non-Party that designates information or  
12 items that it produces in disclosures or in responses to discovery as  
13 “CONFIDENTIAL.”

14          2.6     Disclosure or Discovery Material: all items or information, regardless  
15 of the medium or manner in which it is generated, stored, or maintained (including,  
16 among other things, testimony, transcripts, and tangible things), that are produced  
17 or generated in disclosures or responses to discovery in this matter.

18          2.7     Expert: a person with specialized knowledge or experience in a matter  
19 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
20 an expert witness or as a consultant in this Action.

21          2.8     House Counsel: attorneys who are employees of a party to this Action.  
22 House Counsel does not include Outside Counsel of Record or any other outside  
23 counsel.

24          2.9     Non-Party: any natural person, partnership, corporation, association,  
25 or other legal entity not named as a Party to this action.

26          2.10    Outside Counsel of Record: attorneys who are not employees of a  
27 party to this Action but are retained to represent or advise a party to this Action and  
28 have appeared in this Action on behalf of that party or are affiliated with a law firm

1 which has appeared on behalf of that party, and includes support staff.

2 2.11 Party: any party to this Action, including all of its officers, directors,  
3 employees, consultants, retained experts, and Outside Counsel of Record (and their  
4 support staffs).

5 2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
6 Discovery Material in this Action.

7 2.13 Professional Vendors: persons or entities that provide litigation  
8 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
9 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
10 and their employees and subcontractors.

11 2.14 Protected Material: any Disclosure or Discovery Material that is  
12 designated as “CONFIDENTIAL.”

13 2.15 Receiving Party: a Party that receives Disclosure or Discovery  
14 Material from a Producing Party.

15 3. SCOPE

16 The protections conferred by this Order cover not only Protected Material (as  
17 defined above), but also (1) any information copied or extracted from Protected  
18 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;  
19 and (3) any deposition testimony, conversations, or presentations by Parties or their  
20 Counsel that might reveal Protected Material, other than during a court hearing or at  
21 trial.

22 Any use of Protected Material during a court hearing or at trial shall be  
23 governed by the orders of the presiding judge. This Order does not govern the use  
24 of Protected Material during a court hearing or at trial.

25 4. DURATION

26 Even after final disposition of this litigation, the confidentiality obligations  
27 imposed by this Order shall remain in effect until a Designating Party agrees  
28 otherwise in writing or a court order otherwise directs. Final disposition shall be

1 deemed to be the later of (1) dismissal of all claims and defenses in this Action,  
2 with or without prejudice; and (2) final judgment herein after the completion and  
3 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
4 including the time limits for filing any motions or applications for extension of time  
5 pursuant to applicable law.

6 5. DESIGNATING PROTECTED MATERIAL

7 5.1 Exercise of Restraint and Care in Designating Material for Protection.

8 Each Party or Non-Party that designates information or items for protection under  
9 this Order must take care to limit any such designation to specific material that  
10 qualifies under the appropriate standards. The Designating Party must designate for  
11 protection only those parts of material, documents, items, or oral or written  
12 communications that qualify so that other portions of the material, documents,  
13 items, or communications for which protection is not warranted are not swept  
14 unjustifiably within the ambit of this Order.

15 Mass, indiscriminate, or routinized designations are prohibited. Designations  
16 that are shown to be clearly unjustified or that have been made for an improper  
17 purpose (e.g., to unnecessarily encumber the case development process or to  
18 impose unnecessary expenses and burdens on other parties) may expose the  
19 Designating Party to sanctions.

20 If it comes to a Designating Party's attention that information or items that it  
21 designated for protection do not qualify for protection, that Designating Party must  
22 promptly notify all other Parties that it is withdrawing the inapplicable designation.

23 5.2 Manner and Timing of Designations. Except as otherwise provided in  
24 this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise  
25 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
26 under this Order must be clearly so designated before the material is disclosed or  
27 produced.

28 Designation in conformity with this Order requires:

1 (a) for information in documentary form (e.g., paper or electronic  
2 documents, but excluding transcripts of depositions), that the Producing  
3 Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter  
4 “CONFIDENTIAL legend”), to each page that contains protected material.  
5 If only a portion or portions of the material on a page qualifies for protection,  
6 the Producing Party also must clearly identify the protected portion(s) (e.g.,  
7 by making appropriate markings in the margins).

8 A Party or Non-Party that makes original documents available for inspection  
9 need not designate them for protection until after the inspecting Party has indicated  
10 which documents it would like copied and produced. During the inspection and  
11 before the designation, all of the material made available for inspection shall be  
12 deemed “CONFIDENTIAL.” After the inspecting Party has identified the  
13 documents it wants copied and produced, the Producing Party must determine  
14 which documents, or portions thereof, qualify for protection under this Order. Then,  
15 before producing the specified documents, the Producing Party must affix the  
16 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a  
17 portion or portions of the material on a page qualifies for protection, the Producing  
18 Party also must clearly identify the protected portion(s) (e.g., by making  
19 appropriate markings in the margins).

20 (b) for testimony given in depositions that the Designating Party  
21 identifies on the record, before the close of the deposition as protected  
22 testimony.

23 (c) for information produced in some form other than documentary  
24 and for any other tangible items, that the Producing Party affix in a  
25 prominent place on the exterior of the container or containers in which the  
26 information is stored the legend “CONFIDENTIAL.” If only a portion or  
27 portions of the information warrants protection, the Producing Party, to the  
28 extent practicable, shall identify the protected portion(s).

1           5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
2 failure to designate qualified information or items does not, standing alone, waive  
3 the Designating Party's right to secure protection under this Order for such  
4 material. Upon timely correction of a designation, the Receiving Party must make  
5 reasonable efforts to assure that the material is treated in accordance with the  
6 provisions of this Order.

7           6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8           6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
9 designation of confidentiality at any time that is consistent with the Court's  
10 Scheduling Order.

11           6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
12 resolution process under Local Rule 37-1 et seq.

13           6.3 The burden of persuasion in any such challenge proceeding shall be on  
14 the Designating Party. Frivolous challenges, and those made for an improper  
15 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
16 parties) may expose the Challenging Party to sanctions. Unless the Designating  
17 Party has waived or withdrawn the confidentiality designation, all parties shall  
18 continue to afford the material in question the level of protection to which it is  
19 entitled under the Producing Party's designation until the Court rules on the  
20 challenge.

21           7. ACCESS TO AND USE OF PROTECTED MATERIAL

22           7.1 Basic Principles. A Receiving Party may use Protected Material that is  
23 disclosed or produced by another Party or by a Non-Party in connection with this  
24 Action only for prosecuting, defending, or attempting to settle this Action. Such  
25 Protected Material may be disclosed only to the categories of persons and under the  
26 conditions described in this Order. When the Action has been terminated, a  
27 Receiving Party must comply with the provisions of Section 13 below.

28           Protected Material must be stored and maintained by a Receiving Party at a

1 location and in a secure manner that ensures that access is limited to the persons  
2 authorized under this Order.

3  
4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
5 otherwise ordered by the court or permitted in writing by the Designating Party, a  
6 Receiving Party may disclose any information or item designated  
7 “CONFIDENTIAL” only to:

8 (a) the Receiving Party’s Outside Counsel of Record in this Action, as  
9 well as employees of said Outside Counsel of Record to whom it is  
10 reasonably necessary to disclose the information for this Action;

11 (b) the officers, directors, and employees (including House Counsel)  
12 of the Receiving Party to whom disclosure is reasonably necessary for this  
13 Action;

14 (c) Experts (as defined in this Order) of the Receiving Party to whom  
15 disclosure is reasonably necessary for this Action and who have signed the  
16 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

17 (d) the court and its personnel;

18 (e) court reporters and their staff;

19 (f) professional jury or trial consultants, mock jurors, and Professional  
20 Vendors to whom disclosure is reasonably necessary for this Action and who  
21 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit  
22 A);

23 (g) the author or recipient of a document containing the information or  
24 a custodian or other person who otherwise possessed or knew the  
25 information;

26 (h) during their depositions, witnesses, and attorneys for witnesses, in  
27 the Action to whom disclosure is reasonably necessary provided: (1) the  
28 deposing party requests that the witness sign the “Acknowledgment and

1 Agreement to Be Bound” form attached as Exhibit A hereto; and (2) they  
2 will not be permitted to keep any confidential information unless they sign  
3 the “Acknowledgment and Agreement to Be Bound” attached as Exhibit A,  
4 unless otherwise agreed by the Designating Party or ordered by the court.  
5 Pages of transcribed deposition testimony or exhibits to depositions that  
6 reveal Protected Material may be separately bound by the court reporter and  
7 may not be disclosed to anyone except as permitted under this Protective  
8 Order; and

9 (i) any mediator or settlement officer, and their supporting personnel,  
10 mutually agreed upon by any of the parties engaged in settlement  
11 discussions.

12 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
13 LITIGATION

14 If a Party is served with a subpoena or a court order issued in other litigation  
15 that compels disclosure of any information or items designated in this Action as  
16 “CONFIDENTIAL,” that Party must:

17 (a) promptly notify in writing the Designating Party. Such notification  
18 shall include a copy of the subpoena or court order unless prohibited by law;

19 (b) promptly notify in writing the party who caused the subpoena or  
20 order to issue in the other litigation that some or all of the material covered  
21 by the subpoena or order is subject to this Protective Order. Such  
22 notification shall include a copy of this Protective Order; and

23 (c) cooperate with respect to all reasonable procedures sought to be  
24 pursued by the Designating Party whose Protected Material may be affected.

25 If the Designating Party timely seeks a protective order, the Party served with  
26 the subpoena or court order shall not produce any information designated in this  
27 action as “CONFIDENTIAL” before a determination by the court from which the  
28 subpoena or order issued, unless the Party has obtained the Designating Party’s

1 permission, or unless otherwise required by the law or court order. The  
2 Designating Party shall bear the burden and expense of seeking protection in that  
3 court of its confidential material and nothing in these provisions should be  
4 construed as authorizing or encouraging a Receiving Party in this Action to disobey  
5 a lawful directive from another court.

6 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS  
7 LITIGATION

8 (a) The terms of this Order are applicable to information produced by a Non-  
9 Party in this Action and designated as "CONFIDENTIAL." Such information  
10 produced by Non-Parties in connection with this litigation is protected by the  
11 remedies and relief provided by this Order. Nothing in these provisions should be  
12 construed as prohibiting a Non-Party from seeking additional protections.

13 (b) In the event that a Party is required, by a valid discovery request, to  
14 produce a Non-Party's confidential information in its possession, and the Party is  
15 subject to an agreement with the Non-Party not to produce the Non-Party's  
16 confidential information, then the Party shall:

17 (1) promptly notify in writing the Requesting Party and the Non-Party  
18 that some or all of the information requested is subject to a confidentiality  
19 agreement with a Non-Party;

20 (2) promptly provide the Non-Party with a copy of the Protective  
21 Order in this Action, the relevant discovery request(s), and a reasonably  
22 specific description of the information requested; and

23 (3) make the information requested available for inspection by the  
24 Non-Party, if requested.

25 (c) If a Non-Party represented by counsel fails to commence the process  
26 called for by Local Rules 45-1 and 37-1, et seq. within 14 days of receiving the  
27 notice and accompanying information or fails contemporaneously to notify the  
28 Receiving Party that it has done so, the Receiving Party may produce the Non-

1 Party's confidential information responsive to the discovery request. If an  
2 unrepresented Non-Party fails to seek a protective order from this court within 14  
3 days of receiving the notice and accompanying information, the Receiving Party  
4 may produce the Non-Party's confidential information responsive to the discovery  
5 request. If the Non-Party timely seeks a protective order, the Receiving Party shall  
6 not produce any information in its possession or control that is subject to the  
7 confidentiality agreement with the Non-Party before a determination by the court  
8 unless otherwise required by the law or court order. Absent a court order to the  
9 contrary, the Non-Party shall bear the burden and expense of seeking protection in  
10 this court of its Protected Material.

11 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

12 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
13 Protected Material to any person or in any circumstance not authorized under this  
14 Protective Order, the Receiving Party must immediately (a) notify in writing the  
15 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve  
16 all unauthorized copies of the Protected Material, (c) inform the person or persons  
17 to whom unauthorized disclosures were made of all the terms of this Order, and (d)  
18 request such person or persons to execute the "Acknowledgment and Agreement to  
19 Be Bound" that is attached hereto as Exhibit A.

20 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
21 MATERIAL

22 When a Producing Party gives notice to Receiving Parties that certain  
23 inadvertently produced material is subject to a claim of privilege or other  
24 protection, the obligations of the Receiving Parties are those set forth in Federal  
25 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify  
26 whatever procedure may be established in an e-discovery order that provides for  
27 production without prior privilege review. Pursuant to Federal Rule of Evidence  
28 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure

1 of a communication or information covered by the attorney-client privilege or work  
2 product protection, the parties may incorporate their agreement into this Protective  
3 Order.

4 12. MISCELLANEOUS

5 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
6 person to seek its modification by the Court in the future.

7 12.2 Right to Assert Other Objections. No Party waives any right it  
8 otherwise would have to object to disclosing or producing any information or item  
9 on any ground not addressed in this Protective Order. Similarly, no Party waives  
10 any right to object on any ground to use in evidence of any of the material covered  
11 by this Protective Order.

12 12.3 Filing Protected Material. A Party that seeks to file under seal any  
13 Protected Material must comply with Civil Local Rule 79-5 and with any pertinent  
14 orders of the assigned District Judge and Magistrate Judge. If a Party's request to  
15 file Protected Material under seal is denied by the court, then the Receiving Party  
16 may file the information in the public record unless otherwise instructed by the  
17 court.

18 13. FINAL DISPOSITION

19 After the final disposition of this Action, as defined in Section 4, within 60  
20 days of a written request by the Designating Party, each Receiving Party must  
21 return all Protected Material to the Producing Party or destroy such material. As  
22 used in this subdivision, "all Protected Material" includes all copies, abstracts,  
23 compilations, summaries, and any other format reproducing or capturing any of the  
24 Protected Material. Whether the Protected Material is returned or destroyed, the  
25 Receiving Party must submit a written certification to the Producing Party (and, if  
26 not the same person or entity, to the Designating Party) by the 60 day deadline that  
27 (1) identifies (by category, where appropriate) all the Protected Material that was  
28 returned or destroyed and (2) affirms that the Receiving Party has not retained any

1 copies, abstracts, compilations, summaries or any other format reproducing or  
2 capturing any of the Protected Material. Notwithstanding this provision, Counsel  
3 are entitled to retain an archival copy of all pleadings, motion papers, trial,  
4 deposition, and hearing transcripts, legal memoranda, correspondence, deposition  
5 and trial exhibits, expert reports, attorney work product, and consultant and expert  
6 work product, even if such materials contain Protected Material. Any such archival  
7 copies that contain or constitute Protected Material remain subject to this Protective  
8 Order as set forth in Section 4.

9 14. Any violation of this Order may be punished by any and all appropriate  
10 measures including, without limitation, contempt proceedings and/or monetary  
11 sanctions.

12  
13 PURSUANT TO STIPULATION, IT IS SO ORDERED.

14  
15 DATED: January 27, 2017

\_\_\_\_\_  
/s/  
Hon. Jacqueline Chooljian  
United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Protective Order that was issued by the United States District Court for the Central District of California on January 27, 2017, in the case of *Fund Recovery Services LLC v. Shoreside SPV Funding I, LLC, et al. Case No. 2:16-cv-06954-SJO-JC*, I agree to comply with and to be bound by all the terms of this 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 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 Central District of California for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint \_\_\_\_\_ [print or type full name] of \_\_\_\_\_ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_