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

BEATBOX MUSIC PTY, LTD.,

Plaintiff,

v.

LABRADOR ENTERTAINMENT,
INC. et al.,

Defendants.

Case No. 2:17-cv-6108-MWF (JPRx)

PROTECTIVE ORDER

1. INTRODUCTION

1.1 PURPOSES AND LIMITATIONS

Discovery in this action may involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, good cause exists to issue this Protective Order. This Order does not confer blanket protections on all disclosures or responses to discovery, and the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. As set forth in Section 12.3 below, this Order does not entitle the Parties to file Confidential Information under seal; Civil Local Rule 79-5 sets forth

1 the procedures that must be followed and the standards that will be applied when a
2 Party seeks permission from the Court to file material under seal.

3 2. DEFINITIONS

4 2.1 Action: this pending federal lawsuit.

5 2.2 Challenging Party: a Party or Nonparty that challenges the designation
6 of information or items under this Order.

7 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
8 how it is generated, stored, or maintained) or tangible things that qualify for
9 protection under Federal Rule of Civil Procedure 26(c). “HIGHLY
10 CONFIDENTIAL” information is that extremely sensitive information which, if
11 publicly disclosed, poses a serious, nonspeculative risk of irreparable harm to the
12 Designating Party that could not be avoided by less restrictive means.

13 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
14 their support staff).

15 2.5 Designating Party: a Party or Nonparty that designates information or
16 items that it produces in disclosures or in responses to discovery as
17 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”

18 2.6 Disclosure or Discovery Material: all items or information, regardless
19 of the medium or manner in which it is generated, stored, or maintained (including,
20 among other things, testimony, transcripts, and tangible things), that is produced or
21 generated in disclosures or responses to discovery in this matter.

22 2.7 Expert: a person with specialized knowledge or experience in a matter
23 pertinent to the litigation who has been retained by a Party or its counsel to serve as
24 an expert witness or as a consultant in this action.

25 2.8 House Counsel: attorneys who are employees of a Party to this Action.
26 House Counsel does not include Outside Counsel of Record or any other outside
27 counsel.

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1 2.9 Nonparty: any natural person, partnership, corporation, association, or
2 other legal entity not named as a Party to this action.

3 2.10 Outside Counsel of Record: attorneys who are not employees of a
4 Party to this Action but are retained to represent or advise a Party and have appeared
5 in this Action on behalf of that Party or are affiliated with a law firm that has
6 appeared on behalf of that Party, including support staff.

7 2.11 Party: any Party to this Action, including all of its officers, directors,
8 employees, consultants, retained experts, and Outside Counsel of Record (and their
9 support staffs).

10 2.12 Producing Party: a Party or Nonparty that produces Disclosure or
11 Discovery Material in this Action.

12 2.13 Professional Vendors: persons or entities that provide litigation
13 support services (for example, photocopying, videotaping, translating, preparing
14 exhibits or demonstrations, and organizing, storing, or retrieving data in any form or
15 medium) and their employees and subcontractors.

16 2.14 Protected Material: any Disclosure or Discovery Material that is
17 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”

18 2.15 Receiving Party: a Party that receives Disclosure or Discovery
19 Material from a Producing Party.

20 3. SCOPE

21 The protections conferred by this Order cover not only Protected Material (as
22 defined above) but also any information copied or extracted from Protected
23 Material; all copies, excerpts, summaries, or compilations of Protected Material; and
24 any testimony, conversations, or presentations by Parties or their Counsel that might
25 reveal Protected Material.

26 Any use of Protected Material at trial will be governed by the orders of the
27 trial judge. This Order does not govern the use of Protected Material at trial.

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1 4. DURATION

2 Once a case proceeds to trial, all information that was designated as
3 confidential or maintained under this Order becomes public and will be
4 presumptively available to all members of the public, including the press, unless the
5 trial judge finds compelling reasons to proceed otherwise. See Kamakana v. City &
6 Cnty. of Honolulu, 447 F.3d 1172, 1180-81 (9th Cir. 2006) (distinguishing “good
7 cause” showing for sealing documents produced in discovery from “compelling
8 reasons” needed for merits-related documents). Accordingly, the terms of this
9 Order do not extend beyond the beginning of trial.

10 Even after final disposition of this litigation, the confidentiality obligations
11 imposed by this Order will remain in effect until a Designating Party agrees
12 otherwise in writing or a court order otherwise directs. Final disposition is the later
13 of (1) dismissal of all claims and defenses in this Action, with or without prejudice,
14 or (2) final judgment after the completion and exhaustion of all appeals, rehearings,
15 remands, trials, or reviews of this Action, including the time limits for filing any
16 motions or applications for extension of time under applicable law.

17 5. DESIGNATING PROTECTED MATERIAL

18 5.1 Each Party or Nonparty that designates information or items for
19 protection under this Order must take care to limit any such designation to specific
20 material that qualifies under the appropriate standards. The Designating Party must
21 designate for protection only those parts of material, documents, items, or oral or
22 written communications that qualify so that other portions of the material,
23 documents, items, or communications for which protection is not warranted are not
24 swept unjustifiably within the ambit of this Order.

25 Mass, indiscriminate, or routinized designations are prohibited. Designations
26 that are shown to be clearly unjustified or that have been made for an improper
27 purpose (for example, to unnecessarily encumber the case-development process or
28 to impose unnecessary expenses and burdens on other parties) may expose the

1 Designating Party to sanctions. Given the litigation history of the Parties,
2 unjustified “HIGHLY CONFIDENTIAL” designations or challenges to the same
3 will likely result in monetary sanctions.

4 If it comes to a Designating Party’s attention that information or items it
5 designated for protection do not qualify for that level of protection, that Designating
6 Party must promptly notify all other Parties that it is withdrawing the inapplicable
7 designation.

8 5.2 Except as otherwise provided in this Order, Disclosure or Discovery
9 Material that qualifies for protection under this Order must be clearly so designated
10 before the material is disclosed or produced.

11 Designation in conformity with this Order requires the following:

12 (a) for information in documentary form (for example, paper or electronic
13 documents but excluding transcripts of depositions or other pretrial or trial
14 proceedings), the Producing Party must affix at a minimum the legend
15 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” to each page that contains
16 Protected Material. If only a portion or portions of the material on a page qualify
17 for protection, the Producing Party must clearly identify the protected portion(s) (for
18 example, by making appropriate markings in the margins).

19 A Party or Nonparty that makes original documents available for inspection
20 need not designate them for protection until after the inspecting Party has indicated
21 which documents it would like copied and produced. During the inspection and
22 before the designation, all material made available for inspection must be treated as
23 “HIGHLY CONFIDENTIAL.” After the inspecting Party has identified the
24 documents it wants copied and produced, which it must do within 14 days of
25 inspection, the Producing Party must determine which documents, or portions
26 thereof, qualify for protection under this Order. Then, before producing the
27 specified documents, the Producing Party must affix the appropriate legend to each
28 page that contains Protected Material. If only a portion or portions of the material

1 on a page qualify for protection, the Producing Party also must clearly identify the
2 protected portion(s) (for example, by making appropriate markings in the margins).

3 (b) for testimony given in depositions, the Designating Party must identify
4 the Disclosure or Discovery Material that is protected on the record, before the close
5 of the deposition.

6 (c) for information produced in some form other than documentary and for
7 any other tangible items, the Producing Party must affix in a prominent place on the
8 exterior of the container or containers in which the information is stored the legend
9 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.” If only a portion or portions
10 of the information warrant protection, the Producing Party, to the extent practicable,
11 must identify the protected portion(s).

12 5.3 If timely corrected, an inadvertent failure to designate qualified
13 information or items does not, standing alone, waive the Designating Party’s right to
14 secure protection under this Order for that material. On timely correction of a
15 designation, the Receiving Party must make reasonable efforts to assure that the
16 material is treated in accordance with the provisions of this Order.

17 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

18 6.1 Any Party or Nonparty may challenge a designation of confidentiality
19 at any time consistent with the Court’s scheduling order.

20 6.2 The Challenging Party must initiate the dispute-resolution process (and,
21 if necessary, file a discovery motion) under Local Rule 37.

22 6.3 The burden of persuasion in any such proceeding is on the Designating
23 Party. Frivolous challenges, and those made for an improper purpose (for example,
24 to harass or impose unnecessary expenses and burdens on other parties), may expose
25 the Challenging Party to sanctions. Unless the Designating Party has waived or
26 withdrawn the confidentiality designation, all parties must continue to afford the
27 material in question the level of protection to which it is entitled under the
28 Producing Party’s designation until the Court rules on the challenge.

1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 A Receiving Party may use Protected Material that is disclosed or
3 produced by another Party or by a Nonparty in connection with this Action only for
4 prosecuting, defending, or attempting to settle this Action. Such Protected Material
5 may be disclosed only to the categories of people and under the conditions described
6 in this Order. When the Action has been terminated, a Receiving Party must comply
7 with the provisions of Section 13 below (FINAL DISPOSITION).

8 Protected Material must be stored and maintained by a Receiving Party at a
9 location and in a manner sufficiently secure to ensure that access is limited to the
10 people authorized under this Order.

11 7.2 Unless otherwise ordered by the Court or permitted in writing by the
12 Designating Party, a Receiving Party may disclose any information or item
13 designated “CONFIDENTIAL” only to the following people:

14 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
15 well as employees of that Outside Counsel of Record to whom it is reasonably
16 necessary to disclose the information for this Action;

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

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

22 (d) the Court and its personnel;

23 (e) court reporters and their staff;

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

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

1 (h) during their depositions, witnesses and attorneys for witnesses to
2 whom disclosure is reasonably necessary, provided that the deposing party requests
3 that the witness sign the form attached as Exhibit A hereto and the witnesses will
4 not be permitted to keep any confidential information unless they sign the form,
5 unless otherwise agreed by the Designating Party or ordered by the Court. Pages of
6 transcribed deposition testimony or exhibits to depositions that reveal Protected
7 Material may be separately bound by the court reporter and may not be disclosed to
8 anyone except as permitted under this Order; and

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

12 7.3 Unless otherwise ordered by the Court or permitted in writing by the
13 Designating Party, a Receiving Party may disclose any information or item
14 designated “HIGHLY CONFIDENTIAL” only to those listed in subsections 7.2(a),
15 (c), (d), (e), (f), (g), and (i). As to subsection 7.2(b), disclosure is limited to two
16 representatives, and only in the presence, virtual or in person, of outside counsel.
17 Moreover, the representatives may not keep copies of the “HIGHLY
18 CONFIDENTIAL” material or take notes from it. As to subsection 7.2(h),
19 disclosure is permissible only to those witnesses who sign Exhibit A; moreover,
20 such witnesses may not keep copies of the “HIGHLY CONFIDENTIAL” portions
21 of documents under any circumstances or take notes from them.

22 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
23 IN OTHER LITIGATION

24 If a Party is served with a subpoena or a court order issued in other litigation
25 that compels disclosure of any information or items designated in this Action as
26 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” that Party must

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

1 (b) promptly notify in writing the party who caused the subpoena or order
2 to issue in the other litigation that some or all of the material covered by the
3 subpoena or order is subject to this Protective Order. Such notification must include
4 a copy of this Order; and

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

7 If the Designating Party timely seeks a protective order, the Party served with
8 the subpoena or court order should not produce any information designated in this
9 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” before a
10 determination on the protective-order request by the relevant court unless the Party
11 has obtained the Designating Party’s permission. The Designating Party bears the
12 burden and expense of seeking protection of its Protected Material, and nothing in
13 these provisions should be construed as authorizing or encouraging a Receiving
14 Party in this Action to disobey a lawful directive from another court.

15 9. A NONPARTY’S PROTECTED MATERIAL SOUGHT TO BE
16 PRODUCED IN THIS LITIGATION

17 (a) The terms of this Order are applicable to information produced by a
18 Nonparty in this Action and designated as “CONFIDENTIAL” or “HIGHLY
19 CONFIDENTIAL.” Such information is protected by the remedies and relief
20 provided by this Order. Nothing in these provisions should be construed as
21 prohibiting a Nonparty from seeking additional protections.

22 (b) In the event that a Party is required by a valid discovery request to
23 produce a Nonparty’s Confidential Information in its possession and the Party is
24 subject to an agreement with the Nonparty not to produce the Nonparty’s
25 Confidential Information, then the Party must

26 (1) promptly notify in writing the Requesting Party and the Nonparty
27 that some or all of the information requested is subject to a confidentiality
28 agreement with a Nonparty;

1 (2) promptly provide the Nonparty with a copy of this Order, the
2 relevant discovery request(s), and a reasonably specific description of the
3 information requested; and

4 (3) make the information requested available for inspection by the
5 Nonparty, if requested.

6 (c) If the Nonparty fails to seek a protective order within 21 days of
7 receiving the notice and accompanying information, the Receiving Party may
8 produce the Nonparty's Confidential Information responsive to the discovery
9 request. If the Nonparty timely seeks a protective order, the Receiving Party must
10 not produce any information in its possession or control that is subject to the
11 confidentiality agreement with the Nonparty before a ruling on the protective-order
12 request. Absent a court order to the contrary, the Nonparty must bear the burden
13 and expense of seeking protection of its Protected Material.

14 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

15 If a Receiving Party learns that by inadvertence or otherwise, it has disclosed
16 Protected Material to any person or in any circumstance not authorized under this
17 Order, the Receiving Party must immediately notify the Designating Party in writing
18 of the unauthorized disclosures, use its best efforts to retrieve all unauthorized
19 copies of the Protected Material, inform the person or people to whom unauthorized
20 disclosures were made of the terms of this Order, and ask that person or people to
21 execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto
22 as Exhibit A.

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1 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
2 PROTECTED MATERIAL

3 When a Producing Party gives notice to Receiving Parties that certain
4 inadvertently produced material is subject to a claim of privilege or other protection,
5 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
6 Procedure 26(b)(5)(B).

7 12. MISCELLANEOUS

8 12.1 Nothing in this Order abridges the right of any person to seek its
9 modification by the Court.

10 12.2 No Party waives any right it otherwise would have to object to
11 disclosing or producing any information or item on any ground not addressed in this
12 Order. Similarly, no Party waives any right to object on any ground to use in
13 evidence of any of the material covered by this Order.

14 12.3 A Party that seeks to file under seal any Protected Material must
15 comply with Civil Local Rule 79-5. Protected Material may be filed under seal only
16 pursuant to a court order authorizing the sealing of the specific Protected Material at
17 issue. If a Party's request to file Protected Material under seal is denied, then the
18 Receiving Party may file the information in the public record unless otherwise
19 instructed by the Court.

20 13. FINAL DISPOSITION

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

1 category, when appropriate) all the Protected Material that was returned or
2 destroyed and affirms that the Receiving Party has not retained any copies, abstracts,
3 compilations, summaries, or any other format reproducing or capturing any of the
4 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
5 archival copy of all pleadings; motion papers; trial, deposition, and hearing
6 transcripts; legal memoranda; correspondence; deposition and trial exhibits; expert
7 reports; attorney work product; and consultant and expert work product even if such
8 materials contain Protected Material. Any such archival copies that contain or
9 constitute Protected Material remain subject to this Order as set forth in Section 4
10 (DURATION).

11 14. SANCTIONS

12 Any willful violation of this Order may be punished by civil or criminal
13 contempt, financial or evidentiary sanctions, reference to disciplinary authorities, or
14 other appropriate action at the discretion of the Court.

15

16 IT IS SO ORDERED.

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18 DATED: July 26, 2021



HON. JEAN ROSENBLUTH
U.S. MAGISTRATE JUDGE

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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [full name], of _____
5 [full address], declare under penalty of perjury that I have read in its entirety and
6 understand the Protective Order that was issued by the U.S. District Court for the
7 Central District of California on July 26, 2021, in the case of Beatbox Music Pty,
8 Ltd. v. Labrador Entertainment et al., CV 17-6108-MWF (JPRx). I agree to comply
9 with and to be bound by all terms of this Stipulated Protective Order, and I
10 understand and acknowledge that failure to so comply could expose me to sanctions
11 and punishment, including contempt. I solemnly promise that I will not disclose in
12 any manner any information or item that is subject to this Stipulated Protective
13 Order to any person or entity except in strict compliance with the provisions of this
14 Order.

15 I further agree to submit to the jurisdiction of the U.S. District Court for the
16 Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action. I hereby appoint _____ [full
19 name] of _____ [full address and
20 telephone number] as my California agent for service of process in connection with
21 this action or any proceedings related to enforcement of this Stipulated Protective
22 Order.

23 Date: _____

24 City and State where signed: _____

25
26 Printed name: _____

27
28 Signature: _____