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

SHAWN ROOFIAN, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

CARDENAS MARKETING
NETWORK, INC. and DOES 1 to 100,

Defendants.

Case No.: 2:20-cv-01592 FMO MAA

**STIPULATED PROTECTIVE
ORDER**

1. PURPOSES AND LIMITATIONS

Discovery in this action involves 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, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Stipulated Protective Order does not confer blanket protections on all disclosures or responses to discovery and that 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. The parties further acknowledge, as

STIPULATED PROTECTIVE ORDER

1 set forth in Section 13.3 below, that this Stipulated Protective Order does not entitle
2 them to file confidential information under seal; Local Rule 79-5 sets forth the
3 procedures that must be followed and the standards that will be applied when a
4 party seeks permission from the Court to file material under seal. Discovery in this
5 action is likely to involve production of confidential, proprietary, or private
6 information for which special protection from public disclosure and from use for
7 any purpose other than prosecuting this litigation may be warranted.

8
9 **2. GOOD CAUSE STATEMENT**

10 This action is likely to involve trade secrets, consumer contact information,
11 customer and pricing lists and other valuable research, development, commercial,
12 financial, technical and/or proprietary information for which special protection
13 from public disclosure and from use for any purpose other than prosecution of this
14 action is warranted. Such confidential and proprietary materials and information
15 consist of, among other things, confidential business or financial information,
16 information regarding confidential business practices, or other confidential
17 research, development, or commercial information (including information
18 implicating privacy rights of third parties), information otherwise generally
19 unavailable to the public, or which may be privileged or otherwise protected from
20 disclosure under state or federal statutes, court rules, case decisions, or common
21 law. Accordingly, to expedite the flow of information, to facilitate the prompt
22 resolution of disputes over confidentiality of discovery materials, to adequately
23 protect information the parties are entitled to keep confidential, to ensure that the
24 parties are permitted reasonable necessary uses of such material in preparation for
25 and in the conduct of trial, to address their handling at the end of the litigation, and
26 to serve the ends of justice, a protective order for such information is justified in
27 this matter. It is the intent of the parties that information will not be designated as
28 confidential for tactical reasons and that nothing be so designated without a good

1 faith belief that it has been maintained in a confidential, non-public manner, and
2 there is good cause why it should not be part of the public record of this case.
3

4 **3. DEFINITIONS**

5 3.1. Action: *Shawn Roofian v. Cardenas Marketing Network, Inc.*, 2:20-
6 cv-01592 FMO-MAA (C.D. Cal.)

7 3.2. Challenging Party: A Party or Nonparty that challenges the
8 designation of information or items under this Stipulated Protective
9 Order.

10 3.3. “CONFIDENTIAL” Information or Items: Information (regardless of
11 how it is generated, stored or maintained) or tangible things that
12 qualify for protection under Federal Rule of Civil Procedure 26(c), and
13 as specified above in the Good Cause Statement. Confidential
14 Information or Items includes any information derived from any such
15 thing or documents, including any testimony related to such
16 documents.

17 3.4. Counsel: Outside Counsel of Record and In-House Counsel (as well
18 as their support staff).

19 3.5. Designating Party: A Party or Nonparty that designates information or
20 items that it produces in disclosures or in responses to discovery as
21 “CONFIDENTIAL.”

22 3.6. Disclosure or Discovery Material: All items or information, regardless
23 of the medium or manner in which it is generated, stored, or
24 maintained (including, among other things, testimony, transcripts, and
25 tangible things), that is produced or generated in disclosures or
26 responses to discovery in this matter.

27 3.7. Expert: A person with specialized knowledge or experience in a
28 matter pertinent to the litigation who has been retained by a Party or its

1 counsel to serve as an expert witness or as a consultant in this Action.

2 3.8. In-House Counsel: Attorneys who are employees of a party to this
3 Action. In-House Counsel does not include Outside Counsel of
4 Record or any other outside counsel.

5 3.9. Nonparty: Any natural person, partnership, corporation, association,
6 or other legal entity not named as a Party to this action.

7 3.10. Outside Counsel of Record: Attorneys who are not employees of a
8 party to this Action but are retained to represent or advise a party to
9 this Action and have appeared in this Action on behalf of that party or
10 are affiliated with a law firm which has appeared on behalf of that
11 party, and includes support staff.

12 3.11. Party: Any party to this Action, including all of its officers, directors,
13 employees, consultants, retained experts, In-House Counsel, and
14 Outside Counsel of Record (and their support staffs).

15 3.12. Producing Party: A Party or Nonparty that produces Disclosure or
16 Discovery Material in this Action.

17 3.13. Professional Vendors: Persons or entities that provide litigation
18 support services (e.g., photocopying, videotaping, translating,
19 preparing exhibits or demonstrations, and organizing, storing, or
20 retrieving data in any form or medium) and their employees and
21 subcontractors.

22 3.14. Protected Material: Any Disclosure or Discovery Material that is
23 designated as "CONFIDENTIAL."

24 3.15. Receiving Party: A Party that receives Disclosure or Discovery
25 Material from a Producing Party.

26
27 **4. SCOPE**

28 The protections conferred by this Stipulated Protective Order cover not only
STIPULATED PROTECTIVE ORDER

1 Protected Material, but also (1) any information copied or extracted from Protected
2 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
3 and (3) any testimony, conversations, or presentations by Parties or their Counsel
4 that might reveal Protected Material.

5 Any use of Protected Material at trial shall be governed by the orders of the
6 trial judge. This Stipulated Protective Order does not govern the use of Protected
7 Material at trial.

8 9 **5. DURATION**

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

18 19 **6. DESIGNATING PROTECTED MATERIAL**

20 **6.1. Exercise of Restraint and Care in Designating Material for Protection.**

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

1 Stipulated Protective Order.

2 Mass, indiscriminate, or routinized designations are prohibited.
3 Designations that are shown to be clearly unjustified or that have been
4 made for an improper purpose (*e.g.*, to unnecessarily encumber the
5 case development process or to impose unnecessary expenses and
6 burdens on other parties) may expose the Designating Party to
7 sanctions.

8 6.2. Manner and Timing of Designations.

9 Except as otherwise provided in this Stipulated Protective Order
10 (*see, e.g.*, Section 6.2(a)), or as otherwise stipulated or ordered,
11 Disclosure or Discovery Material that qualifies for protection under
12 this Stipulated Protective Order must be clearly so designated before
13 the material is disclosed or produced.

14
15 Designation in conformity with this Stipulated Protective Order
16 requires the following:

- 17 (a) For information in documentary form (*e.g.*, paper or electronic
18 documents, but excluding transcripts of depositions or other
19 pretrial or trial proceedings), that the Producing Party affix at a
20 minimum, the legend “CONFIDENTIAL” to each page that
21 contains protected material. If only a portion or portions of the
22 material on a page qualifies for protection, the Producing Party
23 also must clearly identify the protected portion(s) (*e.g.*, by
24 making appropriate markings in the margins).

25 A Party or Nonparty that makes original documents
26 available for inspection need not designate them for protection
27 until after the inspecting Party has indicated which documents it
28 would like copied and produced. During the inspection and

1 before the designation, all of the material made available for
2 inspection shall be deemed “CONFIDENTIAL.” After the
3 inspecting Party has identified the documents it wants copied
4 and produced, the Producing Party must determine which
5 documents, or portions thereof, qualify for protection under this
6 Stipulated Protective Order. Then, before producing the
7 specified documents, the Producing Party must affix the legend
8 “CONFIDENTIAL” to each page that contains Protected
9 Material. If only a portion or portions of the material on a page
10 qualifies for protection, the Producing Party also must clearly
11 identify the protected portion(s) (*e.g.*, by making appropriate
12 markings in the margins).

13 (b) For testimony given in depositions, that the Designating Party
14 identify the protected testimony within 14 days after receiving a
15 copy of the deposition transcript.

16 (c) For information produced in nondocumentary form, and for any
17 other tangible items, that the Producing Party affix in a
18 prominent place on the exterior of the container or containers in
19 which the information is stored the legend “CONFIDENTIAL.”
20 If only a portion or portions of the information warrants
21 protection, the Producing Party, to the extent practicable, shall
22 identify the protected portion(s).

23 6.3. Inadvertent Failure to Designate.

24 If timely corrected, an inadvertent failure to designate qualified
25 information or items does not, standing alone, waive the Designating
26 Party’s right to secure protection under this Stipulated Protective Order
27 for such material. Upon timely correction of a designation, the
28 Receiving Party must make reasonable efforts to assure that the

1 material is treated in accordance with the provisions of this Stipulated
2 Protective Order.

3
4 **7. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

5 7.1. Timing of Challenges.

6 Any Party or Nonparty may challenge a designation of
7 confidentiality at any time that is consistent with the Court's
8 Scheduling Order.

9 7.2. Meet and Confer.

10 The Challenging Party shall initiate the dispute resolution
11 process, which shall comply with Local Rule 37.1 et seq., and with

12
13 Section 4 of Judge Audero's Procedures ("Mandatory Telephonic
14 Conference for Discovery Disputes").¹

15 7.3. Burden of Persuasion.

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

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¹ Judge Audero's Procedures are available at
<https://www.cacd.uscourts.gov/honorable-maria-audero>.
STIPULATED PROTECTIVE ORDER

1 **8. ACCESS TO AND USE OF PROTECTED MATERIALS**

2 8.1. Basic Principles.

3 A Receiving Party may use Protected Material that is disclosed
4 or produced by another Party or by a Nonparty in connection with this
5 Action only for prosecuting, defending, or attempting to settle this
6 Action. Such Protected Material may be disclosed only to the
7 categories of persons and under the conditions described in this
8 Stipulated Protective Order. When the Action reaches a final
9 disposition, a Receiving Party must comply with the provisions of
10 Section 14 below.

11 Protected Material must be stored and maintained by a
12 Receiving Party at a location and in a secure manner that ensures that
13 access is limited to the persons authorized under this Stipulated
14 Protective Order.

15 8.2. Disclosure of “CONFIDENTIAL” Information or Items.

16 Unless otherwise ordered by the Court or permitted in writing
17 by the Designating Party, a Receiving Party may disclose any
18 information or item designated “CONFIDENTIAL” only to:

- 19 (a) The Receiving Party’s Outside Counsel of Record, as well as
20 employees of said Outside Counsel of Record to whom it is
21 reasonably necessary to disclose the information for this Action;
- 22 (b) The officers, directors, and employees (including In-House
23 Counsel) of the Receiving Party to whom disclosure is
24 reasonably necessary for this Action;
- 25 (c) Experts of the Receiving Party to whom disclosure is reasonably
26 necessary for this Action and who have signed the
27 “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 28 (d) The Court and its personnel;

- 1 (e) Court reporters and their staff;
- 2 (f) Professional jury or trial consultants, mock jurors, and
- 3 Professional Vendors to whom disclosure is reasonably
- 4 necessary or this Action and who have signed the
- 5 “Acknowledgment and Agreement to be Bound” (Exhibit A);
- 6 (g) The author or recipient of a document containing the
- 7 information or a custodian or other person who otherwise
- 8 possessed or knew the information;
- 9 (h) During their depositions, witnesses, and attorneys for witnesses,
- 10 in the Action to whom disclosure is reasonably necessary
- 11 provided: (i) the deposing party requests that the witness sign
- 12 the “Acknowledgment and Agreement to Be Bound” (Exhibit
- 13 A); and (ii) the witness will not be permitted to keep any
- 14 confidential information unless they sign the “Acknowledgment
- 15 and Agreement to Be Bound,” unless otherwise agreed by the
- 16 Designating Party or ordered by the Court. Pages of transcribed
- 17 deposition testimony or exhibits to depositions that reveal
- 18 Protected Material may be separately bound by the court
- 19 reporter and may not be disclosed to anyone except as permitted
- 20 under this Stipulated Protective Order; and
- 21 (i) Any mediator or settlement officer, and their supporting
- 22 personnel, mutually agreed upon by any of the parties engaged
- 23 in settlement discussions.
- 24

25 **9. PROTECTED MATERIAL SUBPOENAED OR ORDERED**

26 **PRODUCED IN OTHER LITIGATION**

27 If a Party is served with a subpoena or a court order issued in other litigation

28 that compels disclosure of any information or items designated in this Action as
STIPULATED PROTECTIVE ORDER

1 “CONFIDENTIAL,” that Party must:

- 2 (a) Promptly notify in writing the Designating Party. Such notification
3 shall include a copy of the subpoena or court order;
- 4 (b) Promptly notify in writing the party who caused the subpoena or order
5 to issue in the other litigation that some or all of the material covered
6 by the subpoena or order is subject to this Stipulated Protective Order.
7 Such notification shall include a copy of this Stipulated Protective
8 Order; and
- 9 (c) Cooperate with respect to all reasonable procedures sought to be
10 pursued by the Designating Party whose Protected Material may be
11 affected.

12

13 If the Designating Party timely seeks a protective order, the Party served with
14 the subpoena or court order shall not produce any information designated in this
15 action as “CONFIDENTIAL” before a determination by the Court from which the
16 subpoena or order issued, unless the Party has obtained the Designating Party’s
17 permission. The Designating Party shall bear the burden and expense of seeking
18 protection in that court of its confidential material and nothing in these provisions
19 should be construed as authorizing or encouraging a Receiving Party in this Action
20 to disobey a lawful directive from another court.

21

22 **10. A NONPARTY’S PROTECTED MATERIAL SOUGHT TO BE**
23 **PRODUCED IN THIS LITIGATION**

24 10.1. Application.

25 The terms of this Stipulated Protective Order are applicable to
26 information produced by a Nonparty in this Action and designated as
27 “CONFIDENTIAL.” Such information produced by Nonparties in
28 connection with this litigation is protected by the remedies and relief

1 provided by this Stipulated Protective Order. Nothing in these
2 provisions should be construed as prohibiting a Nonparty from seeking
3 additional protections.

4 10.2. Notification.

5 In the event that a Party is required, by a valid discovery
6 request, to produce a Nonparty's confidential information in its
7 possession, and the Party is subject to an agreement with the Nonparty
8 not to produce the Nonparty's confidential information, then the Party
9 shall:

- 10 (a) Promptly notify in writing the Requesting Party and the
11 Nonparty that some or all of the information requested is subject
12 to a confidentiality agreement with a Nonparty;
- 13 (b) Promptly provide the Nonparty with a copy of the Stipulated
14 Protective Order in this Action, the relevant discovery
15 request(s), and a reasonably specific description of the
16 information requested; and
- 17 (c) Make the information requested available for inspection by the
18 Nonparty, if requested.

19 10.3. Conditions of Production.

20 If the Nonparty fails to seek a protective order from this Court
21 within fourteen (14) days after receiving the notice and accompanying
22 information, the Receiving Party may produce the Nonparty's
23 confidential information responsive to the discovery request. If the
24 Nonparty timely seeks a protective order, the Receiving Party shall not
25 produce any information in its possession or control that is subject to
26 the confidentiality agreement with the Nonparty before a
27 determination by the Court. Absent a court order to the contrary, the
28 Nonparty shall bear the burden and expense of seeking protection in

1 this Court of its Protected Material.

2
3 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

4 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
5 Protected Material to any person or in any circumstance not authorized under this
6 Stipulated Protective Order, the Receiving Party immediately must (1) notify in
7 writing the Designating Party of the unauthorized disclosures, (2) use its best
8 efforts to retrieve all unauthorized copies of the Protected Material, (3) inform the
9 person or persons to whom unauthorized disclosures were made of all the terms of
10 this Stipulated Protective Order, and (4) request such person or persons to execute
11 the “Acknowledgment and Agreement to be Bound” (Exhibit A).

12
13 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
14 **PROTECTED MATERIAL**

15 When a Producing Party gives notice to Receiving Parties that certain
16 inadvertently produced material is subject to a claim of privilege or other
17 protection, the obligations of the Receiving Parties are those set forth in Federal
18 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
19 whatever procedure may be established in an e-discovery order that provides for
20 production without prior privilege review. Pursuant to Federal Rule of Evidence
21 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
22 of a communication or information covered by the attorney-client privilege or work
23 product protection, the parties may incorporate their agreement in the Stipulated
24 Protective Order submitted to the Court.

25
26 **13. MISCELLANEOUS**

27 13.1. Right to Further Relief.

28 Nothing in this Stipulated Protective Order abridges the right of
STIPULATED PROTECTIVE ORDER

1 any person to seek its modification by the Court in the future.

2 13.2. Right to Assert Other Objections.

3 By stipulating to the entry of this Stipulated Protective Order, no
4 Party waives any right it otherwise would have to object to disclosing
5 or producing any information or item on any ground not addressed in
6 this Stipulated Protective Order. Similarly, no Party waives any right
7 to object on any ground to use in evidence of any of the material
8 covered by this Stipulated Protective Order.

9 13.3. Filing Protected Material.

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

17
18 **14. FINAL DISPOSITION**

19 After the final disposition or settlement of this Action, within sixty (60) days
20 of a written request by the Designating Party, each Receiving Party must return all
21 Protected Material to the Producing Party or destroy such material. As used in this
22 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
23 summaries, and any other format reproducing or capturing any of the Protected
24 Material. Whether the Protected Material is returned or destroyed, the Receiving
25 Party must submit a written certification to the Producing Party (and, if not the
26 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 is
3 entitled to retain an archival copy of all pleadings; motion papers; trial, deposition,
4 and hearing transcripts; legal memoranda; correspondence; deposition and trial
5 exhibits; expert reports; attorney work product; and consultant and expert work
6 product, even if such materials contain Protected Material. Any such archival
7 copies that contain or constitute Protected Material remain subject to this Stipulated
8 Protective Order as set forth in Section 5.

9 **15. VIOLATION**

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

13
14 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

15
16 Dated: 11/19/20

/s/ Kevin J. Cole
Attorney(s) for Plaintiff
Shawn Roofian

17
18
19 Dated: 11/19/20

/s/ Matthew J. Novian
Attorney for Defendant
Cardenas Marketing Network, Inc.

20
21
22 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

23
24 Dated: 11/20/20


Maria A. Audero
United States Magistrate Judge

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [full name], of _____
4 _____ [address], declare under penalty of perjury that I have read in its
5 entirety and understand the Stipulated Protective Order that was issued by the United
6 States District Court for the Central District of California on _____ [date]
7 in the case of *Shawn Roofian v. Cardenas Marketing Network, Inc.*, 2:20-cv-01592
8 FMO-MAA (C.D. Cal.). I agree to comply with and to be bound by all the terms of
9 this Stipulated Protective Order, and I understand and acknowledge that failure to so
10 comply could expose me to sanctions and punishment in the nature of contempt. I
11 solemnly promise that I will not disclose in any manner any information or item that
12 is subject to this Stipulated Protective Order to any person or entity except in strict
13 compliance with the provisions of this Stipulated Protective Order.

14 I further understand that I am not to retain copies of any Confidential Materials
15 provided to me, and that all copies of such materials are to be returned to counsel
16 who provided me with such materials upon the completion of my deposition (if any).

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

24
25 Signature: _____

26 Printed Name: _____

27 Date: _____

28 City and State Where Sworn and Signed: _____