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10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

12 August Image, LLC,  
13 Plaintiff,  
14 v.  
15 Line Financial PBC; et al.,  
16 Defendant.

Case No. 2:23-cv-05492-WLH (ASx)

PROTECTIVE ORDER

17  
18 1. A. PURPOSES AND LIMITATIONS

19 Discovery in this action is likely to involve production of confidential,  
20 proprietary, or private information for which special protection from public  
21 disclosure and from use for any purpose other than prosecuting this litigation may  
22 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to  
23 enter the following Stipulated Protective Order. The parties acknowledge that this  
24 Order does not confer blanket protections on all disclosures or responses to  
25 discovery and that the protection it affords from public disclosure and use extends  
26 only to the limited information or items that are entitled to confidential treatment  
27 under the applicable legal principles. The parties further acknowledge, as set forth  
28

1 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to  
2 file confidential information under seal; Civil Local Rule 79-5 sets forth the  
3 procedures that must be followed and the standards that will be applied when a party  
4 seeks permission from the court to file material under seal.

#### 5 B. GOOD CAUSE STATEMENT

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

#### 26 2. DEFINITIONS

27 2.1 Action: this pending federal lawsuit.

28 2.2 Challenging Party: a Party or Non-Party that challenges the

1 designation of information or items under this Order.

2       2.3    “CONFIDENTIAL” Information or Items: information (regardless of  
3 how it is generated, stored or maintained) or tangible things that qualify for  
4 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
5 the Good Cause Statement.

6       2.4    Counsel: Outside Counsel of Record and House Counsel (as well as  
7 their support staff).

8       2.5    Designating Party: a Party or Non-Party that designates information or  
9 items that it produces in disclosures or in responses to discovery as  
10 “CONFIDENTIAL.”

11       2.6    Disclosure or Discovery Material: all items or information, regardless  
12 of the medium or manner in which it is generated, stored, or maintained (including,  
13 among other things, testimony, transcripts, and tangible things) that are produced or  
14 generated in disclosures or responses to discovery in this matter.

15       2.7    Expert: a person with specialized knowledge or experience in a matter  
16 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
17 an expert witness or as a consultant in this Action.

18       2.8    House Counsel: attorneys who are employees of a party to this Action.  
19 House Counsel does not include Outside Counsel of Record or any other outside  
20 counsel.

21       2.9    Non-Party: any natural person, partnership, corporation, association, or  
22 other legal entity not named as a Party to this action.

23       2.10   Outside Counsel of Record: attorneys who are not employees of a  
24 party to this Action but are retained to represent or advise a party to this Action and  
25 have appeared in this Action on behalf of that party or are affiliated with a law firm  
26 that has appeared on behalf of that party, and includes support staff.

27       2.11   Party: any party to this Action, including all of its officers, directors,  
28 employees, consultants, retained experts, and Outside Counsel of Record (and their

1 support staffs).

2 2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
3 Discovery Material in this Action.

4 2.13 Professional Vendors: persons or entities that provide litigation  
5 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
6 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
7 and their employees and subcontractors.

8 2.14 Protected Material: any Disclosure or Discovery Material that is  
9 designated as “CONFIDENTIAL.”

10 2.15 Receiving Party: a Party that receives Disclosure or Discovery  
11 Material from a Producing Party.

12 3. SCOPE

13 The protections conferred by this Stipulation and Order cover not only  
14 Protected Material (as defined above), but also (1) any information copied or  
15 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
16 compilations of Protected Material; and (3) any testimony, conversations, or  
17 presentations by Parties or their Counsel that might reveal Protected Material.

18 Any use of Protected Material at trial shall be governed by the orders of the  
19 trial judge. This Order does not govern the use of Protected Material at trial.

20 4. DURATION

21 Once a case proceeds to trial, information that was designated as  
22 CONFIDENTIAL or maintained pursuant to this protective order used or introduced  
23 as an exhibit at trial becomes public and will be presumptively available to all  
24 members of the public, including the press, unless compelling reasons supported by  
25 specific factual findings to proceed otherwise are made to the trial judge in advance  
26 of the trial. *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1180-81  
27 (9th Cir. 2006) (distinguishing “good cause” showing for sealing documents  
28 produced in discovery from “compelling reasons” standard when merits-related

1 documents are part of court record). Accordingly, the terms of this protective order  
2 do not extend beyond the commencement of the trial.

3 5. DESIGNATING PROTECTED MATERIAL

4 5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

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

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

20 5.2 Manner and Timing of Designations. Except as otherwise provided in  
21 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise  
22 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
23 under this Order must be clearly so designated before the material is disclosed or  
24 produced.

25 Designation in conformity with this Order requires:

26 (a) for information in documentary form (*e.g.*, paper or electronic  
27 documents, but excluding transcripts of depositions or other pretrial or trial  
28 proceedings), that the Producing Party affix at a minimum, the legend

1 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that  
2 contains protected material. If only a portion of the material on a page qualifies for  
3 protection, the Producing Party also must clearly identify the protected portion(s)  
4 (e.g., by making appropriate markings in the margins).

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

17 (b) for testimony given in depositions that the Designating Party identifies  
18 the Disclosure or Discovery Material on the record, before the close of the  
19 deposition all protected testimony.

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

26 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
27 failure to designate qualified information or items does not, standing alone, waive  
28 the Designating Party’s right to secure protection under this Order for such material.

1 Upon timely correction of a designation, the Receiving Party must make reasonable  
2 efforts to assure that the material is treated in accordance with the provisions of this  
3 Order.

4 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
6 designation of confidentiality at any time that is consistent with the Court's  
7 Scheduling Order.

8 6.2 Meet and Confer. The Challenging Party shall initiate the informal  
9 dispute resolution process set forth in the Court's Procedures and Schedules. See  
10 <http://www.cacd.uscourts.gov/honorable-alka-sagar>.

11 6.3 The burden of persuasion in any such challenge proceeding shall be on  
12 the Designating Party. Frivolous challenges, and those made for an improper  
13 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
14 parties) may expose the Challenging Party to sanctions. Unless the Designating  
15 Party has waived or withdrawn the confidentiality designation, all parties shall  
16 continue to afford the material in question the level of protection to which it is  
17 entitled under the Producing Party's designation until the Court rules on the  
18 challenge.

19 7. ACCESS TO AND USE OF PROTECTED MATERIAL

20 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
21 disclosed or produced by another Party or by a Non-Party in connection with this  
22 Action only for prosecuting, defending or attempting to settle this Action. Such  
23 Protected Material may be disclosed only to the categories of persons and under the  
24 conditions described in this Order. When the Action has been terminated, a  
25 Receiving Party must comply with the provisions of section 13 below (FINAL  
26 DISPOSITION).

27 Protected Material must be stored and maintained by a Receiving Party at a  
28 location and in a secure manner that ensures that access is limited to the persons

1 authorized under this Order.

2           7.2    Disclosure of “CONFIDENTIAL” Information or Items. Unless  
3 otherwise ordered by the court or permitted in writing by the Designating Party, a  
4 Receiving Party may disclose any information or item designated  
5 “CONFIDENTIAL” only to:

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

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

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

14           (d) the court and its personnel;

15           (e) court reporters and their staff;

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

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

21           (h) during their depositions, witnesses, and attorneys for witnesses, in the  
22 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
23 requests that the witness sign the form attached as Exhibit A hereto; and (2) they  
24 will not be permitted to keep any confidential information unless they sign the  
25 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
26 agreed by the Designating Party or ordered by the court. Pages of transcribed  
27 deposition testimony or exhibits to depositions that reveal Protected Material may  
28 be separately bound by the court reporter and may not be disclosed to anyone except



1 as permitted under this Stipulated Protective Order; and

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

4 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
5 IN OTHER LITIGATION

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

9 (a) promptly notify in writing the Designating Party. Such notification  
10 shall include a copy of the subpoena or court order;

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

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

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

25 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
26 PRODUCED IN THIS LITIGATION

27 (a) The terms of this Order are applicable to information produced by a  
28 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information

1 produced by Non-Parties in connection with this litigation is protected by the  
2 remedies and relief provided by this Order. Nothing in these provisions should be  
3 construed as prohibiting a Non-Party from seeking additional protections.

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

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

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

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

16 (c) If the Non-Party fails to seek a protective order from this court within  
17 14 days of receiving the notice and accompanying information, the Receiving Party  
18 may produce the Non-Party's confidential information responsive to the discovery  
19 request. If the Non-Party timely seeks a protective order, the Receiving Party shall  
20 not produce any information in its possession or control that is subject to the  
21 confidentiality agreement with the Non-Party before a determination by the court.  
22 Absent a court order to the contrary, the Non-Party shall bear the burden and  
23 expense of seeking protection in this court of its Protected Material.

#### 24 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

25 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
26 Protected Material to any person or in any circumstance not authorized under this  
27 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
28 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts

1 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or  
2 persons to whom unauthorized disclosures were made of all the terms of this Order,  
3 and (d) request such person or persons to execute the “Acknowledgment and  
4 Agreement to Be Bound” that is attached hereto as Exhibit A.

5 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
6 PROTECTED MATERIAL

7 When a Producing Party gives notice to Receiving Parties that certain  
8 inadvertently produced material is subject to a claim of privilege or other protection,  
9 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
10 Procedure 26(b)(5)(B). This provision is not intended to modify whatever  
11 procedure may be established in an e-discovery order that provides for production  
12 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and  
13 (e), insofar as the parties reach an agreement on the effect of disclosure of a  
14 communication or information covered by the attorney-client privilege or work  
15 product protection, the parties may incorporate their agreement in the stipulated  
16 protective order submitted to the court.

17 12. MISCELLANEOUS

18 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
19 person to seek its modification by the Court in the future.

20 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
21 Protective Order, no Party waives any right it otherwise would have to object to  
22 disclosing or producing any information or item on any ground not addressed in this  
23 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
24 ground to use in evidence of any of the material covered by this Protective Order.

25 12.3 Filing Protected Material. A Party that seeks to file under seal any  
26 Protected Material must comply with Local Civil Rule 79-5. Protected Material  
27 may only be filed under seal pursuant to a court order authorizing the sealing of the  
28 specific Protected Material at issue. If a Party’s request to file Protected Material

1 under seal is denied by the court, then the Receiving Party may file the information  
2 in the public record unless otherwise instructed by the court.

3 13. FINAL DISPOSITION

4 After the final disposition of this Action, as defined in paragraph 4, within 60  
5 days of a written request by the Designating Party, each Receiving Party must return  
6 all Protected Material to the Producing Party or destroy such material. As used in  
7 this subdivision, “all Protected Material” includes all copies, abstracts, compilations,  
8 summaries, and any other format reproducing or capturing any of the Protected  
9 Material. Whether the Protected Material is returned or destroyed, the Receiving  
10 Party must submit a written certification to the Producing Party (and, if not the same  
11 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies  
12 (by category, where appropriate) all the Protected Material that was returned or  
13 destroyed and (2) affirms that the Receiving Party has not retained any copies,  
14 abstracts, compilations, summaries or any other format reproducing or capturing any  
15 of the Protected Material. Notwithstanding this provision, Counsel are entitled to  
16 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing  
17 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
18 reports, attorney work product, and consultant and expert work product, even if such  
19 materials contain Protected Material. Any such archival copies that contain or  
20 constitute Protected Material remain subject to this Protective Order as set forth in  
21 Section 4 (DURATION).

22 14. VIOLATION

23 Any violation of this Order may be punished by appropriate measures including,  
24 without limitation, contempt proceedings and/or monetary sanctions.

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: March 27, 2024

/s/ Benjamin F. Tookey  
Attorneys for Plaintiff

DATED: March 27, 2024

/s/ Morgan E. Pietz  
Attorneys for Defendant

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: March 28, 2024

                  / s / Sagar  
HON. ALKA SAGAR  
UNITED STATES MAGISTRATE JUDGE

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3  
4 I, \_\_\_\_\_ [print or type full name], of  
5 \_\_\_\_\_ [print or type full address], declare under penalty of perjury  
6 that I have read in its entirety and understand the Stipulated Protective Order that  
7 was issued by the United States District Court for the Central District of California  
8 on [date] in the case of *AUGUST IMAGE, LLC v. LINE FINANCIAL, PBC, et al.*,  
9 Case No. 2:23-cv-05492-WLH(ASx). I agree to comply with and to be bound by all  
10 the terms of this Stipulated Protective Order and I understand and acknowledge that  
11 failure to so comply could expose me to sanctions and punishment in the nature of  
12 contempt. I solemnly promise that I will not disclose in any manner any  
13 information or item that is subject to this Stipulated Protective Order to any person  
14 or entity except in strict compliance with the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court for the  
16 Central District of California for enforcing the terms of this Stipulated Protective  
17 Order, even if such enforcement proceedings occur after termination of this action.

18 I hereby appoint \_\_\_\_\_ [print or type full name] of  
19 \_\_\_\_\_ [print or type 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  
24 Date: \_\_\_\_\_

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

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

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

28