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 herein as NATIONWIDE INSURANCE
 8

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 13 INC. and JASON HARTMAN

14
 15 **THE UNITED STATES DISTRICT COURT**
 16 **CENTRAL DISTRICT OF CALIFORNIA**

17 PLATINUM PROPERTIES
 INVESTOR NETWORK, INC., a
 18 California corporation; and JASON
 HARTMAN, an individual,

CASE NO. 8:14-cv-01321-AG-JCG
 Hon. Jay C. Gandhi
 Courtroom: 6A

19 Plaintiffs,

**STIPULATED PROTECTIVE
 ORDER REGARDING
 PRIVILEGED DOCUMENTS
 PRODUCED BY LEE HARDEE,
 ESQ. AND THE HARDEE LAW
 FIRM LLC AND JEFF BAKER,
 ESQ. AND SANDERS, WARREN &
 RUSSELL, LLP AND
 DEPOSITIONS OF LEE HARDEE,
 ESQ. AND JEFF BAKER, ESQ.**

20 vs.

21 NATIONWIDE INSURANCE, and
 22 DOES 1 through 100,

23 Defendants.

24
 25 Discovery Cutoff: January 5, 2016
 26 Pretrial Conference: March 21, 2016
 27 Trial Date: April 5, 2016

1 **1. A. PURPOSES AND LIMITATIONS**

2 Plaintiffs, Platinum Properties Investor Network, Inc. and Jason Hartman
3
4 (“Plaintiffs”), Defendant, AMCO Insurance, Co. (“AMCO”) and Third Parties,
5 Lee R. Hardee III, Esq. and The Hardee Law Firm LLC (collectively referred to as
6 “Hardee”) and Jeff Baker, Esq. and Sanders, Warren & Russell, LLP
7
8 (“collectively referred to as “Baker”) (hereinafter, the “Parties”) agree that they
9 each may possess information relating to the subject matter of this case which is
10 or could be confidential or proprietary. The Parties agree that protection of the
11 categories of confidential information and attorney-client privileged information,
12 identified in this Stipulated Protective Order (“Protective Order”), is necessary
13 because it is anticipated that in this case documents and information will be
14 requested which relate to the previous representation of the Plaintiffs and non-
15 parties, Karen Karanickolas, Brittney Roberts and David Toombs by Hardee, and
16 of the Plaintiffs by Baker in the case styled *Results Property Management, LLC et*
17 *al., v. Platinum Properties Investor Network, Inc. et al*, Case No. 1016-CV35390,
18 in the Circuit Court of Jackson County, Missouri. The requested discovery and
19 information, including deposition testimony of Hardee and Baker, will require
20 disclosure of confidential information, including but not limited to, documents and
21 information protected by the attorney-client privilege and attorney work-product
22 privilege.
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2 The Parties recognize that in the course of discovery proceedings, it may be
3 necessary to disclose to other parties certain confidential information, but each
4 wishes to ensure that such information is not be used for any purpose other than
5 this lawsuit and is not made public or be otherwise disseminated, beyond the
6 extent necessary for the purposes of this action. To expedite discovery and permit
7 discovery to proceed without the delay occasioned by possible disputes regarding
8 claims of confidentiality, the Parties wish to produce documents and things
9 subject to the protective provisions set forth below.
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13 Hardee and Baker’s disclosure of information pursuant to the subpoenas
14 served by AMCO relative to this lawsuit and in their depositions is made in
15 reliance on the provisions of this Protective Order permitting them to designate
16 documents, testimony, information, and things as “Confidential” as defined
17 below, and thereby protect such designated information from unauthorized use or
18 disclosure.
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21 The Parties acknowledge, as set forth in Section 11, below, that this
22 Protective Order does not entitle them to file confidential information under seal;
23 Civil Local Rule 79-5 sets forth the procedures that must be followed and the
24 standards that will be applied when a party seeks permission from the court to file
25 material under seal.
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1 The Parties therefore agree to the terms and conditions set forth below and
2 entry by the Court of this Protective Order.

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4 **B. GOOD CAUSE STATEMENT**

5 This action involves information and documents that Hardee and Baker
6 claim are protected by the attorney-client privilege and the attorney-work product
7 for which special protection from public disclosure and from use for any purpose
8 other than prosecution of this action is warranted. Such confidential materials and
9 information consist of attorney-client privileged communications and documents,
10 and documents that constitute attorney work-product in the “Underlying Action”,
11 (as defined below) that are unavailable to the public and which may be privileged
12 or otherwise protected from disclosure under state or federal statutes, court rules,
13 case decisions, or common law.
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17 Accordingly, to allow and expedite the flow of information from Hardee
18 and Baker, that Plaintiffs claim are in possession of the documents supporting
19 Plaintiffs’ claims in this case, as well as any additional relevant documents
20 requested by AMCO in discovery of this case from these third-party witnesses, to
21 facilitate the prompt resolution of disputes over confidentiality of discovery
22 materials, to adequately protect information these third-parties contend are entitled
23 to keep confidential, to ensure that the parties are permitted reasonable necessary
24 uses of such material in preparation for and in the conduct of trial, to address their
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1 handling at the end of the litigation, and serve the ends of justice, a protective
2 order for such information is justified in this matter. It is the Parties' intent that
3 information will not be designated as confidential for tactical reasons and that
4 nothing be so designated without a good faith belief that it has been maintained in
5 a confidential, non-public manner, and there is good cause why it should not be
6 part of the public record of this case.
7
8

9 **3. SCOPE**

10 All documents and materials produced by Hardee and Baker in response to
11 the subpoenas served on them and in giving their depositions in this case
12 (hereinafter collectively "Documents"), are subject to this Protective Order as set
13 forth below. As there is a presumption in favor of open and public judicial
14 proceedings in the federal courts, this Protective Order will be strictly construed in
15 favor of public disclosure and open proceedings wherever possible. Any disputes
16 that arise under this Protective Order will be resolved by this Court after the
17 obligation to meet and confer between the parties is met. Any use of the protected
18 material at trial shall be governed by the orders of the trial judge. This Protective
19 Order does not govern the use of protected material at trial. However, the parties
20 agree that Plaintiffs and AMCO will seek to have any Confidential Information
21 disclosed or provided by Hardee or Baker that is used at trial by requesting that
22 those portions of the record be sealed.
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4 **4. DEFINITION OF CONFIDENTIAL INFORMATION.**

5 As used in this Protective Order, “Confidential Information” is defined as
6 information that Hardee and Baker designate in good faith, that has been
7 previously maintained in a confidential manner, that should be protected from
8 disclosure and use outside the litigation because its disclosure and use is restricted
9 by statute or could potentially cause harm to the interests of the disclosing party or
10 nonparties, and that has been designated as “CONFIDENTIAL.” For purposes of
11 this Protective Order, Confidential Information is limited to the following
12 categories of information and documents, and the Parties will limit their
13 Confidential designations to the below-described categories:
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17 a. Documents relating to communications between attorneys and the
18 attorneys’ respective clients;

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20 b. Drafts of letters, pleadings, reports, summaries, memoranda, or other
21 written documents contained within any attorney’s litigation file;

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23 c. Other information or tangible things that qualify for protection under
24 Federal Rule of Civil Procedure 26(c), including, but not limited to, information
25 which constitutes, reflects, contains, or concerns non-public, confidential or
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1 proprietary information, the disclosure of which could be potentially prejudicial to
2 the business or operations of the Designating Party.

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4 The Designating Party shall not designate as Confidential Information,
5 documents, or things that are known by the Designating Party to be available to
6 members of the general public.

7
8 **5. DESIGNATION OF DOCUMENTARY MATERIAL.**

9 Documentary material may be designated as CONFIDENTIAL by
10 stamping or otherwise marking each page with the appropriate confidentiality
11 designation and with the identity of the classifying party unless it is indicated as
12 part of the production number (*e.g.*, “Plaintiff P00001”) contained on the
13 document. Except with respect to documents produced by any party prior to the
14 execution by the Parties of this Protective Order, the identification and designation
15 of Confidential Information shall be made at the time when a copy of the
16 document is provided to the requesting party.
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19
20 Unless otherwise designated or agreed by the Parties, all documents made
21 available for inspection prior to copying and production shall be presumed to have
22 been marked CONFIDENTIAL. No documents of the party or third party
23 producing documents shall be removed from the site of the inspection or copied
24 until such producing party or third party has had an opportunity to review and
25 designate such documents in the manner previously explained.
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1 With regard to non-written material, such as recordings, magnetic media,
2 photographs and things, the designation of any information as CONFIDENTIAL
3 for purposes of this Protective Order shall be made by affixing a
4 CONFIDENTIAL designation to the material, or a container for the material, in
5 any suitable manner at the time of copying (if any).
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8 **6. INADVERTENT FAILURE TO DESIGNATE.**

9 Inadvertent failure to designate any document or material as containing
10 CONFIDENTIAL information will not constitute a waiver of an otherwise valid
11 claim of confidentiality pursuant to this Order, so long as a claim of
12 confidentiality is asserted within 14 days after discovery of the inadvertent failure.
13

14 **7. DESIGNATION OF DEPOSITIONS**

15 Deposition or other oral testimony given in this case by Hardee or Baker
16 may be designated as CONFIDENTIAL by them either (a) during the deposition
17 or proceeding during which the testimony is given, or (b) by written notice to the
18 court reporter and to all counsel of record, within ten (10) days of receipt, either
19 by mail or email, of the deposition transcript. Unless otherwise ordered by the
20 Court, pending the expiration of this ten (10) day period, all parties and persons
21 shall treat the testimony as if it has been designated CONFIDENTIAL. Unless
22 otherwise ordered by the Court, the designating party shall have the right to have
23 all persons, except the witness, his or her counsel, the court reporter, and such
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1 other persons authorized to receive the designating party's Confidential
2 Information pursuant to this Protective Order, excluded from a deposition or
3 proceeding, or any portion thereof, before the taking therein of testimony that has
4 been so designated. The court reporter shall mark the cover of the original and all
5 copies of the transcript or the portion of the transcript containing testimony
6 designated as either CONFIDENTIAL with the appropriate legend.
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9 **8. BELATED DESIGNATION.**

10 Notwithstanding the obligations to timely designate Confidential
11 Information under the foregoing paragraphs, nothing contained in this Order
12 precludes a party or a third party from later changing that designation and
13 notifying the other parties in writing of that change; provided, however, that it
14 shall not be deemed a breach of this Protective Order for any action to have been
15 taken by a party or its counsel with respect to such information consistent with the
16 original designation of such information prior to receipt of such notice. A party
17 receiving such written notice shall make every reasonable effort to retrieve any
18 such materials from persons not authorized to receive them pursuant to this
19 Protective Order and to avoid any further unauthorized disclosure. Any party that
20 changes the designation of any materials under this Protective Order shall timely
21 provide the other parties to this action with new copies of the materials with the
22 new designation(s).
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1 **9. NON-USE.**

2 Plaintiffs and AMCO shall use the Confidential Information only for
3 purposes of this litigation and pursuant to this protective order.
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5 **10. PROTECTION OF CONFIDENTIAL MATERIAL.**

6 **(a) General Protections.** Designated Confidential Information must be
7 used or disclosed solely for purposes of prosecuting or defending this lawsuit,
8 including any appeals [or any other related legal proceeding brought by one of the
9 parties to this litigation].
10

11 **(b) Who May View Designated Confidential Information.** Except with
12 the prior written consent of the designating party or prior order of the court,
13 designated Confidential Information may only be disclosed to the following
14 persons:
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16 a. The parties to this litigation, including any employees, agents, and
17 representatives of the parties;
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19 b. Counsel for the parties and employees and agents of counsel;
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21 c. The court and court personnel, including any special master
22 appointed by the court, and members of the jury;
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24 d. Court reporters, recorders, and videographers engaged for
25 depositions;
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1 e. Any mediator appointed by the court or jointly selected by the
2 parties;

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4 f. Any expert witness, outside consultant, or investigator retained
5 specifically in connection with this litigation, but only after such persons have
6 completed the certification contained in Attachment A, Acknowledgment and
7 Agreement to be Bound;

8
9 g. Any potential, anticipated, or actual fact witness and his or her
10 counsel, but only to the extent such confidential documents or information will
11 assist the witness in recalling, relating, or explaining facts or in testifying, and
12 only after such persons have completed the certification contained in Attachment
13 A;

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16 h. The author or recipient of the document (not including a person who
17 received the document in the course of the litigation);

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19 i. Independent providers of document reproduction, electronic
20 discovery, or other litigation services retained or employed specifically in
21 connection with this litigation; and

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23 j. Other persons only upon consent of the producing party and on such
24 conditions as the parties may agree.

25 This Protective Order has no effect upon and shall not apply to (1) any
26 party's use of its own Confidential Information for any purpose, or (2) any party's
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1 use of documents or other information developed or obtained independently of
2 discovery in this action for any purpose.

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4 Nothing in this Protective Order shall bar or otherwise restrict an attorney,
5 who is a qualified recipient under the terms of paragraph 10(b) of this Protective
6 Order, from rendering advice to his or her client with respect to this action, and in
7 the course thereof, from generally relying upon his or her examination of
8 Confidential Information. In rendering such advice or in other communications
9 with the client, the attorney shall not disclose any Confidential Information of
10 another party or third party where such disclosure would not otherwise be
11 permitted under the terms of this Protective Order.
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14 **11. FILING CONFIDENTIAL INFORMATION.**

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16 In the event a party seeks to file any document containing Confidential
17 Information subject to protection under this Order with the court, that party must
18 take appropriate action to insure that the document receives proper protection
19 from public disclosure including: (a) where appropriate (e.g., in relation to
20 discovery and evidentiary motions), submitting the document solely for in camera
21 review; or (b) when the preceding measures are inadequate, seeking permission to
22 file the document under seal by filing a motion for leave to file under seal. A
23 party that seeks to file under seal any material designated as “Confidential” must
24 comply with Civil Local Rule 79-5. This material may only be filed under seal
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1 pursuant to a court order authorizing the sealing of the specific material at issue.
2 If a party's request to file material designated as "confidential" under seal is
3 denied by the court, then the receiving party may file the information in the public
4 record unless otherwise instructed by the court.
5

6 Nothing in this Order will be construed as a prior directive to allow any
7 document to be filed under seal. The Parties understand that the requested
8 documents may be filed under seal only with the permission of this court after
9 proper motion. If the motion is granted and the requesting party is permitted to file
10 the requested documents under seal, only counsel of record and unrepresented
11 parties will have access to the sealed documents. *Pro hac vice* attorneys must
12 obtain sealed documents from local counsel.
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16 **12. INADVERTENT DISCLOSURE OF PRIVILEGED**
17 **MATERIALS**

18 Federal Rule of Civil Procedure 26(b)(5)(B) governs the inadvertent or
19 mistaken production of information that is subject to a claim of privilege or of
20 protection as trial-preparation material. The inadvertent disclosure of information
21 that is privileged shall not, by itself, constitute a waiver of the privilege. If a party
22 inadvertently discloses any document or thing containing information that it
23 deemed confidential without designating it as CONFIDENTIAL, the disclosing
24 party shall promptly upon discovery of such inadvertent disclosure inform the
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1 receiving party in writing and the receiving party shall thereafter treat the
2 information as CONFIDENTIAL under this Order.

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4 **13. CHALLENGES TO A CONFIDENTIAL DESIGNATION.**

5 The designation of any material or document as Confidential Information is
6 subject to challenge by any party. Before filing any motion or objection to a
7 confidential designation, the objecting party must meet and confer in good faith to
8 resolve the objection informally without judicial intervention. The challenging
9 party shall initiate the dispute resolution process under Local Rule 37.1, *et seq.*
10 and in the event a resolution is not reached, the challenging party, after making a
11 good faith effort to meet and confer, shall file a noticed motion. A party that
12 elects to challenge a confidentiality designation may file and serve a motion in
13 this court that identifies the challenged material and sets forth in detail the basis
14 for the challenge. The burden of proving the necessity of a confidentiality
15 designation remains with the party asserting confidentiality. Until the court rules
16 on the challenge, all parties must continue to treat the materials as Confidential
17 Information under the terms of this Protective Order.
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22 **14. USE OF CONFIDENTIAL DOCUMENTS OR INFORMATION**
23 **AT TRIAL OR HEARING.**
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25 Nothing in this Order will be construed to affect the use of any document,
26 material, or information at any trial or hearing. A party that intends to present or
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1 that anticipates that another party may present Confidential Information at a
2 hearing or trial must bring that issue to the attention of the Court and the other
3 parties, including Hardee and Baker, without disclosing the Confidential
4 Information. The court may thereafter make such orders as are necessary to
5 govern the use of such documents or information at the hearing or trial.
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11 **15. DISCLOSURE OF CONFIDENTIAL INFORMATION TO**
12 **UNAUTHORISED PERSON(S).**

13 If Confidential Information is disclosed to any person other than those
14 authorized to receive such information by this Order, the party responsible for the
15 disclosure shall immediately inform the designating party of all pertinent facts
16 relating to such disclosure and shall make every reasonable effort to prevent
17 disclosure by each unauthorized person who received such information and to
18 obtain the return of such information.
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21 **16. CONCLUSION OF LITIGATION**

22 **(a) Order Remains in Effect.** Unless otherwise agreed or ordered, all
23 provisions of this Order will remain in effect until this action is concluded by
24 judgment, dismissal and/or order of this Court.
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1 **(b) Return of Confidential Documents.** Within 90 days after this
2 litigation concludes by settlement, final judgment, or final order, including all
3 appeals, all documents designated as containing Confidential Information,
4 including copies as defined above, must be returned to the party who previously
5 produced the document unless: (1) the document has been offered into evidence or
6 filed without restriction as to disclosure; (2) the parties agree to destruction of the
7 document to the extent practicable in lieu of return; or (3) as to documents bearing
8 the notations, summations, or other mental impressions of the receiving party, that
9 party elects to destroy the documents and certifies to the producing party that it
10 has done so.
11

12 **(c) Retention of Work Product.** Notwithstanding the above
13 requirements to return or destroy documents, counsel may retain attorney work
14 product, including an index which refers or relates to designated Confidential
15 Information, so long as that work product does not duplicate verbatim substantial
16 portions of the text or images of designated documents. This work product will
17 continue to be confidential under this Protective Order. An attorney may use his or
18 her own work product in subsequent litigation provided that its use does not
19 disclose Confidential Information.
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25 **17. MODIFICATION.**
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1 Stipulations may be made between counsel for the respective parties as to
2 the application of this Protective Order to specific situations provided that such
3 stipulations are recorded in writing or contained in the record of any oral
4 proceeding. Nothing contained herein shall preclude any party from seeking an
5 order of the Court modifying or supplementing this Protective Order.
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8 **18. NO PRIOR JUDICIAL DETERMINATION.**

9 This Order is entered based on the representations and agreements of the
10 parties and for the purpose of facilitating discovery. Nothing in this Protective
11 Order will be construed or presented as a judicial determination that any document
12 or material designated as Confidential Information by counsel or the parties is
13 entitled to protection under Fed. R. Civ. P. 26(c) or otherwise until such time as
14 the court
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17 **19. PERSONS BOUND BY PROTECTIVE ORDER.**

18 This Protective Order will take effect when entered and is binding upon all
19 counsel of record and their law firms, the parties, and persons made subject to this
20 Protective Order by its terms.
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22 **20. APPLICABILITY TO PARTIES LATER JOINED.**

23 If additional persons or entities become parties to this lawsuit, they must not
24 be given access to any Confidential Information until they execute and file with
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1 the court their written agreement to be bound by the provisions of this Protective
2 Order.

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4 **21. CONFIDENTIAL INFORMATION SUBPOENAD OR**
5 **ORDERED PRODUCED IN OTHER LITIGATION.**

6 If a receiving party is served with a subpoena or an order issued in other
7 litigation that would compel disclosure of any material or document designated in
8 this action as Confidential Information, the receiving party must so notify the
9 designating party, in writing, immediately and in no event more than three (3)
10 business days after receiving the subpoena or order. Such notification must
11 include a copy of the subpoena or court order. The receiving party also must
12 immediately inform in writing the party who caused the subpoena or order to issue
13 in the other litigation that some or all of the material covered by the subpoena or
14 order is the
15 subject of this Protective Order. In addition, the receiving party must deliver a
16 copy of this Protective Order promptly to the party in the other action that caused
17 the subpoena to issue. The purpose of imposing these duties is to alert the
18 interested persons to the existence of this Protective Order and to afford the
19 designating party in this case an opportunity to try to protect its Confidential
20 Information in the court from which the subpoena or order issued. The designating
21 party bears the burden and the expense of seeking protection in that court of its
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1
2 Jeff Baker
3 Sanders, Warren & Russell, LLP

4 Dated: November, _____ 2015

5 _____
6 Jeff Baker
7 Signing as Third-Party and not as attorney
8 counsel in this litigation
9 40 Corporate Woods, Ste. 1250
10 9401 Indian Creek Parkway,
11 Overland Park, KS 66210
12 Phone: (913)234-6116
13 Fax: (913) 234-6199
14 jc.baker@swrllp.com

15
16 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

17 DATED: November 24, 2015

18 
19 _____
20 Jay C. Gandhi, United States Magistrate Judge

21
22 **ATTACHMENT A**

23 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

24 The undersigned hereby acknowledges that he/she has read the Protective
25 Order dated November____, 2015 in the case captioned, *Platinum Properties*
26 *Investment Network, Inc. v. AMCO Insurance, Co.*, Case No. 2:15-mc-00213-
27 JAR, and attached hereto, understands the terms thereof, and agrees to be bound
28 by its terms. The undersigned submits to the jurisdiction of the United States

1 District Court for the District of California in matters relating to this Protective
2 Order and understands that the terms of the Protective Order obligate him/her to
3 use materials designated as Confidential Information in accordance with the order
4 solely for the purposes of the above-captioned action, and not to disclose any such
5 Confidential Information to any other person, firm, or concern, except in
6 accordance with the provisions of the Protective Order. The undersigned
7 acknowledges that violation of the Protective Order may result in penalties for
8 contempt of court.
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12 Name: _____

13 Job Title: _____

14 Employer: _____

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16 Business Address: _____

17 Date: _____

18 Signature: _____
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ATTESTATION OF CONCURRENCE IN FILING

I hereby attest and certify that on November 13, 2015, I received concurrence from Plaintiff’s counsel, Doug Iler, Esq., to file this document with his electronic signature attached.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 17, 2015.

/s/ Christine M. Emanuelson
Christine M. Emanuelson