

1 PHILIP A. MCLEOD, CASB 101101  
 HELEN LAYERLE, CASB 264475  
 2 KEESAL, YOUNG & LOGAN  
 450 Pacific Avenue  
 3 San Francisco, California 94133  
 Telephone: (415)398-6000  
 4 Facsimile: (415)981-0136  
 -and-  
 5 GREGORY M. SUDBURY  
*Admitted Pro Hac*  
 6 QUILLING, SELANDER, LOWNDS,  
 WINSLETT & MOSER, P.C.  
 7 2001 Bryan Street, Suite 1800  
 Dallas, Texas 75201  
 8 Telephone: (214) 880-1878  
 Facsimile: (214) 871-2111  
 9 ATTORNEYS FOR PLAINTIFF  
 JPMORGAN CHASE BANK, N.A.

# FILED

SEP 25 2014

CLERK, U.S. DISTRICT COURT  
 EASTERN DISTRICT OF CALIFORNIA  
 BY \_\_\_\_\_  
 DEPUTY CLERK

11 **UNITED STATES DISTRICT COURT**  
 12 **EASTERN DISTRICT OF CALIFORNIA**

14 JPMORGAN CHASE BANK, N.A.,	)	Case No. 2:13-CV-01397-JAM-KJN
	)	
15 Plaintiff,	)	<b>PROTECTIVE ORDER</b>
	)	
16 vs.	)	
	)	
17 SIERRA PACIFIC MORTGAGE COMPANY,	)	
INC.,	)	
	)	
18 Defendant.	)	
	)	

20 The parties to this Protective Order have agreed to the terms of this Order; accordingly, it is  
 21 ORDERED:

22 1. Good cause. Good cause exists for the entry of this Protective Order to allow for the  
 23 exchange of financial information related to borrowers that are not parties in this lawsuit. There is a  
 24 particularized need for the protection of this information through a court order because it is private  
 25 financial information for persons that are not parties in this lawsuit and may be prohibited from  
 26 disclosure by statutes including, but not limited to, the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 *et*  
 27 *seq.*

28 ///

1           2.     Scope. All materials produced or adduced in the course of discovery, including initial  
2 disclosures, responses to discovery requests, deposition testimony and exhibits, and information  
3 derived directly therefrom (hereinafter collectively “documents”), shall be subject to this Order  
4 concerning Confidential Information as defined below. This Order is subject to the Local Rules of this  
5 District and the Federal Rules of Civil Procedure on matters of procedure and calculation of time  
6 periods.

7           3.     Confidential Information. As used in this Order, “Confidential Information” means  
8 information designated as “CONFIDENTIAL-SUBJECT TO PROTECTIVE ORDER” by the  
9 producing party that falls within one or more of the following categories: (a) information prohibited  
10 from disclosure by statute; (b) information that reveals trade secrets; (c) research, technical,  
11 commercial or financial information that the party has maintained as confidential; (d) personal  
12 identity information; or (e) personnel, employment, or financial records of a person who is not a party to  
13 the case. Information or documents that are available to the public may not be designated as  
14 Confidential Information.

15           4.     Designation.

16           A party may designate a document as Confidential Information for protection under this Order  
17 by placing or affixing the words “CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER” on the  
18 document and on all copies in a manner that will not interfere with the legibility of the document. As  
19 used in this Order, “copies” includes electronic images, duplicates, extracts, summaries or  
20 descriptions that contain the Confidential Information. The marking “CONFIDENTIAL - SUBJECT  
21 TO PROTECTIVE ORDER” shall be applied prior to or at the time of the documents are produced or  
22 disclosed. Applying the marking “CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER” to a  
23 document does not mean that the document has any status or protection by statute or otherwise except  
24 to the extent and for the purposes of this Order. Any copies that are made of any documents marked  
25 “CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER” shall also be so marked, except that  
26 indices, electronic databases or lists of documents that do not contain substantial portions or images  
27 of the text of marked documents and do not otherwise disclose the substance of the Confidential  
28 Information are not required to be marked.

1           5.     Depositions.

2           Unless all parties agree on the record at the time the deposition testimony is taken, all  
3 deposition testimony taken in this case shall be treated as Confidential Information until the  
4 expiration of the following: no later than the fourteenth day after the transcript is delivered to any  
5 party or the witness, and in no event later than 60 days after the testimony was given. Within this  
6 time period, a party may serve a Notice of Designation to all parties of record as to specific portions  
7 of the testimony that are designated Confidential Information, and thereafter only those portions  
8 identified in the Notice of Designation shall be protected by the terms of this Order. The failure to  
9 serve a timely Notice of Designation shall waive any designation of testimony taken in that deposition  
10 as Confidential Information, unless otherwise ordered by the Court.

11           6.     Protection of Confidential Material.

12           (a)     General Protections. Confidential Information shall not be used or disclosed by the  
13 parties, counsel for the parties or any other persons identified in subparagraph (b) for any purpose  
14 whatsoever other than in this litigation, including any appeal thereof.

15           (b)     Limited Third-Party Disclosures. The parties and counsel for the parties shall not  
16 disclose or permit the disclosure of any Confidential Information to any third person or entity except  
17 as set forth in subparagraphs (6)(b)(1)-(9). Subject to these requirements, the following categories of  
18 persons may be allowed to review Confidential Information:

- 19                 1.     Counsel. Counsel for the parties and employees of counsel who have  
20                         responsibility for the action;
- 21                 2.     Parties. Individual parties and employees of a party;
- 22                 3.     The Court and its personnel;
- 23                 4.     Court Reporters and Recorders. Court reporters and recorders engaged for  
24                         depositions;
- 25                 5.     Contractors. Those persons specifically engaged for the limited purpose of  
26                         making copies of documents or organizing or processing documents, including  
27                         outside vendors hired to process electronically stored documents;

26     ///

27     ///

- 1           6.     **Consultants and Experts.** Consultants, investigators, or experts employed by  
2           the parties or counsel for the parties to assist in the preparation and trial of this  
3           action but only after such persons have completed the certification contained in  
4           Attachment A, Acknowledgment of Understanding and Agreement to Be  
5           Bound;  
6           7.     **Witnesses at depositions.** During their depositions, witnesses in this action to  
7           whom disclosure is reasonably necessary. Witnesses shall not retain a copy of  
8           documents containing Confidential Information, except witnesses may receive  
9           a copy of all exhibits marked at their depositions in connection with review of  
10          the transcripts.  
11          8.     **Author or recipient.** The author or recipient of the document (not including a  
12          person who received the document in the course of litigation); and  
13          9.     **Others by Consent.** Other persons only by written consent of the producing  
14          party or upon order of the Court and on such conditions as may be agreed or  
15          ordered.

16           (c)     **Control of Documents.** Counsel for the parties shall make reasonable efforts to  
17          prevent unauthorized or inadvertent disclosure of Confidential Information. Counsel shall maintain  
18          the originals of the forms signed by persons acknowledging their obligations under this Order for a  
19          period of three years after the termination of the case.

20           7.     **Inadvertent Failure to Designate.** An inadvertent failure to designate a document as  
21          Confidential Information does not, standing alone, waive the right to so designate the document;  
22          provided, however, that a failure to serve a timely Notice of Designation of deposition testimony as  
23          required by this Order, even if inadvertent, waives any protection for deposition testimony. If a party  
24          designates a document as Confidential Information after it was initially produced, the receiving party,  
25          on notification of the designation, must make a reasonable effort to assure that the document is treated  
26          in accordance with the provisions of this Order. No party shall be found to have violated this Order  
27          for failing to maintain the confidentiality of material during a time when that material has not been  
28          designated Confidential Information, even where the failure to so designate was inadvertent and  
29          where the material is subsequently designated Confidential Information.

30           8.     **Filing of Confidential Information.** This Order does not, by itself, authorize the  
31          filing of any document under seal. Any filing of Confidential Information with the Court under seal  
32          must comply with the Federal and Local Rules.

33          ///

1           9.     Challenges by a Party or Non-Party to Designation as Confidential  
2 Information.

3           Challenges to the designation of Confidential Information may be made by a party or  
4 non-party.

5           10.    Action by the Court. Any applications to the Court relating to the materials or  
6 documents designated as Confidential Information shall be in accordance with Federal and Local  
7 Rules.

8           11.    Use of Confidential Documents or Information at Trial. Nothing in this Order shall  
9 be construed to affect the use of any document, material, or information at any trial or hearing. A  
10 party that intends to present or that anticipates that another party may present Confidential  
11 Information at a hearing or trial shall bring that issue to the Court's and parties' attention by motion or  
12 in a pretrial memorandum without disclosing the Confidential Information. The Court may thereafter  
13 make such orders as are necessary to govern the use of such documents or information at trial.

14           12.    Confidential Information Subpoenaed or Ordered Produced in Other Litigation.

15           (a)    If a receiving party is served with a subpoena or an order issued in other litigation that  
16 would compel disclosure of any material or document designated in this action as Confidential  
17 Information, the receiving party must so notify the designating party, in writing, immediately and in  
18 no event more than three court days after receiving the subpoena or order. Such notification must  
19 include a copy of the subpoena or court order.

20           (b)    The receiving party also must immediately inform in writing the party who caused the  
21 subpoena or order to issue in the other litigation that some or all of the material covered by the  
22 subpoena or order is the subject of this Order. In addition, the receiving party must deliver a copy of  
23 this Order promptly to the party in the other action that caused the subpoena to issue.

24           (c)    The purpose of imposing these duties is to alert the interested persons to the existence  
25 of this Order and to afford the designating party in this case an opportunity to try to protect its  
26 Confidential Information in the court from which the subpoena or order issued. The designating party  
27 shall bear the burden and the expense of seeking protection in that court of its Confidential  
28 Information, and nothing in these provisions should be construed as authorizing or encouraging a

1 receiving party in this action to disobey a lawful directive from another court. The obligations set  
2 forth in this paragraph remain in effect while the party has in its possession, custody or control  
3 Confidential Information by the other party to this case.

4 14. Obligations on Conclusion of Litigation.

5 (a) Order Continues in Force. Unless otherwise agreed or ordered, this Order shall  
6 remain in force after dismissal or entry of final judgment not subject to further appeal.

7 (b) Obligations at Conclusion of Litigation. Within sixty-three days after dismissal or  
8 entry of final judgment not subject to further appeal, all Confidential Information and documents  
9 marked "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" under this Order, including  
10 copies as defined in ¶ 4, shall be returned to the producing party unless: (1) the document has been  
11 offered into evidence or filed without restriction as to disclosure; (2) the parties agree to destruction to  
12 the extent practicable in lieu of return; or (3) as to documents bearing the notations, summations, or  
13 other mental impressions of the receiving party, that party elects to destroy the documents and  
14 certifies to the producing party that it has done so.

15 (c) Retention of Work Product and one set of Filed Documents. Notwithstanding the  
16 above requirements to return or destroy documents, counsel may retain (1) attorney work product,  
17 including an index that refers or relates to designated Confidential Information so long as that work  
18 product does not duplicate verbatim substantial portions of Confidential Information, and (2) one  
19 complete set of all documents filed with the Court including those filed under seal. Any retained  
20 Confidential Information shall continue to be protected under this Order. An attorney may use his or  
21 her work product in subsequent litigation, provided that its use does not disclose or use Confidential  
22 Information.

23 (d) Deletion of Documents filed under Seal from Electronic Case Filing (ECF)  
24 System. Filings under seal shall be deleted from the ECF system only upon order of the Court.

25 15. Order Subject to Modification. This Order shall be subject to modification by the  
26 Court on its own initiative, or by Court Order approving the parties' stipulation to a modification of  
27 the terms of the existing protective order.

28 ///

1           16.    No Prior Judicial Determination. This Order is entered based on the representations  
2 and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be  
3 construed or presented as a judicial determination that any document or material designated  
4 Confidential Information by counsel or the parties is entitled to protection under Rule 26(c) of the  
5 Federal Rules of Civil Procedure or otherwise until such time as the Court may rule on a specific  
6 document or issue.

7           17.    Persons Bound. This Order shall take effect when entered and shall be binding upon  
8 all counsel of record and their law firms, the parties, and persons made subject to this Order by its  
9 terms.

10           **IT IS SO ORDERED.**

11           Dated: September 25, 2014

  
UNITED STATES DISTRICT JUDGE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JPMORGAN CHASE BANK, N.A.,	)	Case No. 2:13-CV-01397-JAM-KJN
	)	
Plaintiff,	)	<b>ATTACHMENT A TO PROTECTIVE</b>
	)	<b>ORDER – ACKNOWLEDGMENT OF</b>
vs.	)	<b>UNDERSTANDING AND AGREEMENT</b>
	)	<b>TO BE BOUND</b>
SIERRA PACIFIC MORTGAGE COMPANY,	)	
INC.,	)	
	)	
Defendant.	)	
	)	

The undersigned hereby acknowledges that he/she has read the Protective Order dated \_\_\_\_\_ in the above-captioned action and attached hereto, understands the terms thereof, and agrees to be bound by its terms. The undersigned submits to the jurisdiction of the United States District Court for the Eastern District of California in matters relating to the Protective Order and understands that the terms of the Protective Order obligate him/her to use materials designated as Confidential Information in accordance with the Order solely for the purposes of the above-captioned action, and not to disclose any such Confidential Information to any other person, firm or concern.

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Date: \_\_\_\_\_