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6 Attorneys for Defendant
 7 THE SYGMA NETWORK, INC.

8 UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA
 10 SACRAMENTO DIVISION

11
 12 ERIC HILL,
 13 Plaintiff,
 14 vs.
 15 THE SYGMA NETWORK, INC. and DOES 1
 through 100, INCLUSIVE,
 16 Defendants.

Case No. 2:13-cv-02638-MCE-EFB

**STIPULATION OF CONFIDENTIALITY
 AND ORDER GRANTING PROTECTIVE
 ORDER**

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 19 Plaintiff ERIC HILL (“Plaintiff” or “Hill”) and Defendant THE SYGMA NETWORK,
 20 INC. (“Defendant” or “Sygma”) by and through their counsel, hereby stipulate as follows:

21 WHEREAS, in connection with discovery in this case, the parties have sought and/or
 22 anticipate seeking certain documents and/or information that the others contend is private,
 23 highly confidential, and/or proprietary;

24 WHEREAS, the parties desire to protect the confidentiality of such documents and
 25 information consistent with applicable law, to ensure that they can obtain and pursue discovery
 26 with a minimum of delay and expense;

27 WHEREAS, the parties acknowledge that this Order does not confer blanket protections
 28 on all disclosures or responses to discovery and that the protection it affords from public

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 A limited liability partnership formed in the State of Delaware

1 disclosure and use extends only to the limited information or items that are entitled to
2 confidential treatment under the applicable legal principles. The parties further acknowledge, as
3 set forth below, that this stipulation and order does not entitle them to file confidential
4 information under seal; Civil Local Rule 141 sets forth the procedures that must be followed
5 and the standards that will be applied when a party seeks permission from the court to file
6 material under seal;

7 NOW, THEREFORE, the parties hereby stipulate and agree as follows:

8 1. **DEFINITIONS** As used in this Protective Order:

9 The term “Person” includes a natural person, association, organization, partnership,
10 limited liability company, business, trust, corporation, or public entity and any agent of the
11 foregoing.

12 The term “Material” means the original and any copy (regardless of origin or location)
13 of any written, reported, recorded or graphic matter, however stored, produced or reproduced,
14 including, but not limited to, computer-stored and computer retrievable information; testimony
15 at depositions upon oral examinations or upon written questions; answers to interrogatories;
16 information obtained from the inspection of premises; tangible objects or documents; answers
17 to requests for admission; and anything that is a “writing” under the Federal Rules of Evidence.

18 The term “Provide” means the production, delivery, or transfer of any Material,
19 voluntarily or involuntarily, regardless of whether it is performed pursuant to a request or
20 subpoena.

21 The term “Confidential Information” means any information, whether documentary or
22 oral, so designated by any producing Person or party which it reasonably, under standards
23 developed under federal statutory and common law, believes is of the type entitled to protection
24 by law, subject to any party’s right to challenge such designation through court intervention, as
25 specified herein.

26 The term “Action” means the case entitled ERIC HILL v. THE SYGMA NETWORK,
27 INC., United States District Court, Eastern District of California, Sacramento Division, Case
28 No. 2:13-cv-02638-MCE-EFB.

1 The term “Plaintiff” means Plaintiff ERIC HILL, and any person or entity purporting to
2 act on his behalf.

3 The term “Defendant” means Defendant THE SYGMA NETWORK, INC. and
4 Defendant’s current and former employees, agents, managers, officers, directors, subsidiaries,
5 parent companies, and divisions, and any person or entity purporting to act on their behalf.

6 **2. DESIGNATION/DISCLOSURE OF CONFIDENTIAL MATERIAL**

7 **A. Manner and Timing of Designation.** The parties may designate as
8 confidential at the time of production any Materials or information that contains Confidential
9 Information by placing or affixing on each page of such Material the legend
10 “CONFIDENTIAL” or a similar legend. Portions of deposition testimony and transcripts may
11 be designated “CONFIDENTIAL” pursuant to the provisions of Paragraph 3, below.

12 **B. Permitted Disclosures.** Material designated as “CONFIDENTIAL” shall
13 not be used for any purpose other than the prosecution or defense of the Action by the party or
14 parties receiving such Material in discovery.

15 B.1 Material designated as “CONFIDENTIAL” shall only be provided,
16 exhibited, or disclosed to the following persons:

17 B.1.a. Parties to the Action (Plaintiff and Defendant Sygma)

18 B.1.b. Outside counsel of record engaged in the prosecution or defense of this
19 litigation for the parties, including the paralegals, legal assistants, stenographic, or clerical
20 employees who assist such counsel;

21 B.1.c. In-house counsel of any party engaged in the prosecution or defense of
22 this litigation for the parties including the paralegals, legal assistants, stenographic, or clerical
23 employees and vendors who assist such counsel;

24 B.1.d. Outside experts (including without limitation, any translators), consultants,
25 or investigators retained by the parties or their counsel of record in connection with this
26 litigation under the conditions described in Paragraph 6 below;

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1 B.1.e. A current or former employee of a producing Person or party interviewed
2 (to the extent consistent with applicable law) under the conditions described in Paragraph 6
3 below;

4 B.1.f. Court reporters, videographers, mediators or other professional vendors
5 engaged for this litigation, and their staff;

6 B.1.g. The United States District Court, Eastern District of California,
7 Sacramento Division, and its personnel, or other persons acting on its behalf, including without
8 limitation members of any jury that may serve in proceedings in the Action; and

9 C. **Restrictions on Use.** Persons described in paragraph 2.B.1.a.- g. to whom
10 Material designated as “CONFIDENTIAL” are to be Provided, exhibited, or disclosed pursuant
11 to this Paragraph 2 must have (a) read this order; (b) agreed to be bound by the terms thereof,
12 (c) agreed to maintain said information in confidence, (d) agreed not to disclose the same except
13 as permitted by this Paragraph 2, and (e) agreed to use said information solely for purposes of
14 the prosecution and defense of this litigation and not for any business, competitive or other
15 purposes whatsoever. Notwithstanding the foregoing, United States District Court, Eastern
16 District of California, Sacramento Division, and its personnel, or other persons acting on its
17 behalf, are not subject to the provisions in this Paragraph.

18 **3. DEPOSITIONS**

19 A. The parties may designate any information disclosed during depositions as
20 “CONFIDENTIAL” either on the record at the deposition or within 15 calendar days after
21 completion of the deposition transcript.

22 B. Designation of the portion of the transcript (including exhibits) as
23 “CONFIDENTIAL” shall be made as follows: Upon review of the transcript by the party
24 whose information the contents of the deposition relate, that party shall designate within 15
25 calendar days after his or her receipt of the transcript, by written communication to the other
26 parties, the specific pages and lines to be designated as “CONFIDENTIAL.” If no designation
27 is made within 15 calendar days after receipt of the transcript, the transcript shall be considered
28 not to contain any confidential material.

1 C. A person not otherwise authorized to be shown information or documents
2 designated “CONFIDENTIAL” under this Protective Order may be examined as a witness at
3 deposition and may be shown and may testify concerning any such information or documents as
4 follows:

5 C.1. A present employee of a producing Person or party may be examined, may
6 be shown, and may testify concerning any “CONFIDENTIAL” information of that producing
7 Person or party.

8 C.2. A former employee or consultant of a producing Person or party may be
9 examined, may be shown, may be interviewed, and may testify concerning any
10 “CONFIDENTIAL” information of a producing Person or party that pertains in any way to the
11 subject matter of his/her consultation or employment or to the subject matter of his/her
12 communications with the producing Person or party.

13 C.3. A non-party who has had any contact or relationship with a party may be
14 examined, may be shown, may be interviewed, and may testify:

15 C.3.a. Concerning any Material containing “CONFIDENTIAL” information that
16 appears on its face to have been communicated between the non-party and any party; and

17 C.3.b. Concerning any “CONFIDENTIAL” information of a party that
18 documentary or testimonial evidence indicates was communicated between the non-party and
19 the party.

20 4. **CHALLENGING DESIGNATION OF CONFIDENTIAL MATERIAL**

21 A. A party may only designate materials as CONFIDENTIAL when it in
22 “good faith” believes it is entitled to protection from disclosure under the law. In the event that
23 any party at any time believes designated material should not be so designated, such party shall
24 so notify the designating party in writing, and the parties then shall meet and confer in good
25 faith concerning such disputed confidential information within ten (10) calendar days of receipt
26 of the notice. If agreement is not reached, the designating party shall then have fifteen (15)
27 calendar days file a motion requesting that the Court enter a protective order formally
28 designating such materials as confidential. In such a proceeding, the designating party bears the

1 burden of proof under applicable legal standards with respect to any challenged designation.
2 The designated material shall be subject to and protected by this Stipulation and Order under
3 the designation assigned by the designating party, at least until the Court has ruled on any such
4 application. No party shall be obliged to challenge the propriety of a confidential designation,
5 and a failure to do so shall not preclude a subsequent challenge to the propriety of such
6 designation.

7 **5. INADVERTENT DISCLOSURE**

8 A. If a producing Person or party inadvertently fails to stamp or otherwise
9 appropriately designate certain documents or information as “CONFIDENTIAL” upon
10 production or disclosure, the producing Person or any other party may thereafter designate by
11 promptly giving written notice to all parties that the Material is to be so designated. All parties
12 shall then stamp or otherwise mark the designated Material with a “CONFIDENTIAL” or a
13 similar legend.

14 B. To the extent provided by law, the inadvertent production of any
15 privileged or otherwise protected Materials shall not be deemed a waiver or impairment of any
16 claim of privilege or protection, including but not limited to, the attorney-client privilege and
17 the protection afforded to work-product Materials, or the subject matter thereof. Upon
18 receiving notice from a producing Person or party that Materials have been inadvertently
19 produced, all such Materials (including all copies) shall be returned to the producing Person or
20 party within five (5) business days of receipt of that notice, unless timely application is made to
21 the Court within that period to challenge the claim of privilege.

22 **6. DISCLOSURE OF CONFIDENTIAL INFORMATION TO EXPERTS,**
23 **CONSULTANTS, EMPLOYEES AND INVESTIGATORS**

24 A. Before a party discloses Materials designated as “CONFIDENTIAL” to any
25 expert, consultant, current or former employee, or investigator, the expert, consultant or
26 investigator must certify that he or she has read this Protective Order and must sign a copy of
27 the “Agreement to be Bound by Protective Order,” attached hereto as Exhibit A. Once the
28 expert, consultant, former employee or investigator has executed the “Agreement to be Bound

1 by Protective Order,” it shall not be necessary for that person to sign a separate statement each
2 time he or she is subsequently given access to information or Materials designated as
3 “CONFIDENTIAL.” An expert, consultant, former employee or investigator that is shown
4 Material designated as “CONFIDENTIAL” may retain copies of that Material or information
5 subject to the provisions of Paragraph 7 below.

6 B. The original, executed “Agreement to be Bound by Protective Order” signed by
7 Persons receiving Materials designated as “CONFIDENTIAL,” pursuant to this Paragraph 7
8 shall be maintained by the attorney of record who obtained the Agreement.

9 **7. COMPLETION OF LITIGATION**

10 Upon completion of all proceedings in this Action, including the expiration of all rights
11 to judicial review, all Materials produced in discovery that are designated as
12 “CONFIDENTIAL” shall be returned to the producing party or destroyed. If the receiving
13 party elects to destroy instead of returning such Materials, the receiving party shall confirm in
14 writing to the producing party within sixty (60) days after final termination of the Action that
15 the Materials have been destroyed. Each party shall also ensure that all experts retained by the
16 party to whom Materials designated as “CONFIDENTIAL” were disclosed shall return all such
17 Materials to the party retaining such expert or, alternatively, shall confirm in writing that all
18 such Materials have been destroyed. Returning parties are not required to return or destroy any
19 pleadings, discovery requests, documents filed with the Court, hearing transcripts, or attorney
20 work-product. The provisions of this Protective Order restricting the dissemination, exhibition
21 or other use of Materials designated as “CONFIDENTIAL” shall continue to be binding on any
22 person subject to the terms of the Protective Order after conclusion of this Action.

23 **8. RIGHT TO SEEK RELIEF FROM THE COURT**

24 Nothing in this Protective Order shall be deemed to limit, prejudice or waive any rights
25 of any party or person: (a) to resist or compel discovery with respect to, or to seek additional or
26 different protection for, Material claimed to be protected by attorney work-product or other
27 applicable privilege, Material as to which the party or person claims a legal obligation not to
28 disclose, or Material not required to be produced pursuant to governing laws and rules; (b) to

1 seek to modify or obtain relief from any aspect of this Protective Order; (c) to object to the use,
2 relevance or admissibility at trial of any evidence, whether or not comprised of Confidential
3 Information governed by this Protective Order; (d) otherwise to require that discovery be
4 conducted according to governing laws and rules; or (e) to oppose production of any
5 information on any ground allowed under the Federal Rules of Civil Procedure, or any other
6 law, rule or regulation. By signing this Protective Order, a producing party is not deemed to
7 waive any objection to the production of any document. In addition, the election by any party
8 to disclose any portion of its “CONFIDENTIAL” information to others shall not be deemed a
9 waiver of any of the rights established by this Protective Order. The placing of any
10 “CONFIDENTIAL” designation or a production identification number on the face of a
11 document produced shall have no effect on the authenticity or admissibility of that document at
12 trial.

13 **9. FILING CONFIDENTIAL INFORMATION WITH THE COURT**

14 Whenever a party files any document with the Court that contains (a) Materials that
15 have been designated as “CONFIDENTIAL” or (b) Confidential Information of any party, the
16 filing party shall comply with Civil Local Rule 141.

17 **10. USE OF “CONFIDENTIAL” MATERIAL IN COURT**

18 Should any party desire to use “CONFIDENTIAL” Material, or any portion or summary
19 thereof, during any proceedings held in open court, he or she shall, prior to such use and upon
20 conferring with the opposing party, make a request to the Court that the materials designated as
21 “CONFIDENTIAL” be filed under seal with this Court. The parties shall exercise due care not
22 to disclose “CONFIDENTIAL” information needlessly in the public record of any
23 proceedings.’

24 **11. MAINTENANCE OF “CONFIDENTIAL” MATERIAL**

25 Persons described in paragraph 2.B.1.a.- g. with custody of Materials designated as
26 “CONFIDENTIAL” shall maintain them in a manner that ensures that access to it is strictly
27 limited to Persons entitled to receive Confidential Information in accordance with this
28 Protective Order.

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12. SUBPOENAS

If a receiving party is served with a subpoena or an order issued in other litigation that would compel disclosure of Materials designated in this action as “CONFIDENTIAL,” the receiving party must so notify the designating party, in writing immediately and in no event more than three court days after receiving the subpoena or order. Such notification must include a copy of the subpoena or court order.

13. JURISDICTION

Upon conclusion of this litigation, this Court shall retain such jurisdiction with respect to this Protective Order for purposes of enforcing its terms and conditions and to enable any party herein affected to apply for such other and further orders concerning the subject of this Protective Order as may be necessary or appropriate. The designating party shall have the opportunity to oppose any request for public inspection of Materials designated as “CONFIDENTIAL.”

14. RIGHTS INTACT

Except as described herein, this Protective Order shall not abrogate or diminish any contractual, statutory or other legal obligation or right of any party or person with respect to any Confidential Information.

DATED: May 2, 2014

REED SMITH LLP

By: /s/ L. Julius M. Turman
L. Julius M. Turman
Philip J. Smith
Attorneys for Defendant,
THE SYGMA NETWORK, INC.

DATED: May 2, 2014

LAW OFFICE OF JEFFREY D. FULTON


By: /s/ Jeffrey D. Fulton
Jeffrey D. Fulton
Natalya Grunwald
Attorneys for Plaintiff,
ERIC HILL

ORDER

The Court having reviewed the foregoing Stipulation, and good cause appearing therefore, the Parties' Stipulation of Confidentiality and Protective Order, ECF No. 11, is
HEREBY GRANTED.

IT IS SO ORDERED.

Dated: May 21, 2014



MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT

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EXHIBIT A

AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

I hereby acknowledge that I am about to receive Confidential Information provided in connection with the litigation entitled ERIC HILL v. THE SYGMA NETWORK, INC., United States District Court, Eastern District of California, Sacramento Division, Case No. 2:13-cv-02638-MCE-EFB. I certify my understanding that such Confidential Information is to be provided to me pursuant to the terms and restrictions of the Protective Order in the action and that I have been given a copy of and have read said Protective Order and agree to be bound by the terms thereof. I understand that such Confidential Information and any copies I make of any Material containing Confidential Information or any notes or other records that may be made regarding any such Confidential Information shall not be disclosed to any persons other than those persons to whom such information may be disclosed pursuant to this Protective Order.

LAW OFFICE OF JEFFREY D. FULTON

Jeffrey D. Fulton
[Print name]

/s/ Jeffrey D. Fulton
Signature

May 2, 2014
Date

Based on the parties' stipulation, and good cause appearing, IT IS SO ORDERED.

Dated: _____