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25 UNITED STATES DISTRICT COURT
 26 EASTERN DISTRICT OF CALIFORNIA

27 MARK ANDERSON,
 28 Plaintiff,
 vs.
 SAFE STREETS USA LLC and DOES 1
 through 100, inclusive,
 Defendants.

Case No.: 2:18-cv-00323-KJM-EFB
 STIPULATED AND [~~PROPOSED~~]
 PROTECTIVE ORDER PURSUANT TO
 E.D. CAL. CIV. L.R. 141.1

Pursuant to Judge Kimberly J. Mueller’s Minute Order dated August 21, 2020 (Dkt. No. 31),
 this Stipulated and Proposed Protective Order for discovery purposes only is respectfully submitted
 by the parties to Magistrate Judge Edmund F. Brennan for his review and approval.

1 1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve production of
3 confidential, proprietary, or private information for which special protection from public disclosure
4 and from use for any purpose other than prosecuting this litigation may be warranted. Such
5 information may include, but is not necessarily limited to, information that reveals trade secrets or
6 sensitive training, operational, technical and/or financial data or processes of a party, the disclosure
7 of which could cause competitive harm; research, proprietary, technical, commercial or financial
8 information that the party has maintained as confidential; medical information concerning any
9 individual; personal identifying information; income tax returns and related tax documents; and
10 information or documents concerning customers of any party. Accordingly, the parties hereby
11 stipulate to and petition the court to enter the following Stipulated Protective Order. The parties
12 acknowledge that this Order does not confer blanket protections on all disclosures or responses to
13 discovery and that the protection it affords from public disclosure and use extends only to the
14 limited information or items that are entitled to confidential treatment under the applicable legal
15 principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated
16 Protective Order does not entitle them to file confidential information under seal; Civil Local Rule
17 141 sets forth the procedures that must be followed and the standards that will be applied when a
18 party seeks permission from the court to file material under seal.

19 2. DEFINITIONS

20 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
21 information or items under this Order.

22 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
23 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of
24 Civil Procedure 26(c).

25 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
26 as their support staff).

27 2.4 Designating Party: a Party or Non-Party that designates information or items that it
28 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

1 2.5 Disclosure or Discovery Material: all items or information, regardless of the medium
2 or manner in which it is generated, stored, or maintained (including, among other things, testimony,
3 transcripts, and tangible things), that are produced or generated in disclosures or responses to
4 discovery in this matter.

5 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to
6 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
7 consultant in this action.

8 2.7 House Counsel: attorneys who are employees of a party to this action. House
9 Counsel does not include Outside Counsel of Record or any other outside counsel.

10 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal
11 entity not named as a Party to this action.

12 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this action
13 but are retained to represent or advise a party to this action and have appeared in this action on
14 behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

15 2.10 Party: any party to this action, including all of its officers, directors, employees,
16 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

17 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
18 Material in this action.

19 2.12 Professional Vendors: persons or entities that provide litigation support services
20 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
21 storing, or retrieving data in any form or medium) and their employees and subcontractors.

22 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
23 “CONFIDENTIAL.”

24 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
25 Producing Party.

26 3. SCOPE

27 The protections conferred by this Stipulation and Order cover not only Protected Material
28 (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all

1 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
2 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
3 However, the protections conferred by this Stipulation and Order do not cover the following
4 information: (a) any information that is in the public domain at the time of disclosure to a Receiving
5 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of
6 publication not involving a violation of this Order, including becoming part of the public record
7 through trial or otherwise; and (b) any information known to the Receiving Party prior to the
8 disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the
9 information lawfully and under no obligation of confidentiality to the Designating Party. Any use
10 of Protected Material at trial shall be governed by a separate agreement or order.

11 4. DURATION

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

18 5. DESIGNATING PROTECTED MATERIAL

19 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
20 Non-Party that designates information or items for protection under this Order must take care to
21 limit any such designation to specific material that qualifies under the appropriate standards. The
22 Designating Party must designate for protection only those parts of material, documents, items, or
23 oral or written communications that qualify – so that other portions of the material, documents,
24 items, or communications for which protection is not warranted are not swept unjustifiably within
25 the ambit of this Order. If it comes to a Designating Party’s attention that information or items that
26 it designated for protection do not qualify for protection, that Designating Party must promptly
27 notify all other Parties that it is withdrawing the mistaken designation.

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1 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
2 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
3 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
4 designated before the material is disclosed or produced.

5 Designation in conformity with this Order requires:

6 (a) for information in documentary form (e.g., paper or electronic documents, but
7 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
8 affix the legend “CONFIDENTIAL” on the document and on all copies in a manner that will not
9 interfere with the legibility of the document. As used in this Order, “copies” includes electronic
10 images, duplicates, extracts, summaries or descriptions that contain the Confidential Information.

11 Applying the marking “CONFIDENTIAL” to a document does not mean that the document
12 has any status or protection by statute or otherwise except to the extent and for the purposes of this
13 Order. Any copies that are made of any documents marked “CONFIDENTIAL” shall also be so
14 marked, except that indices, electronic databases or lists of documents that do not contain
15 substantial portions or images of the text of marked documents and do not otherwise disclose the
16 substance of the Disclosure or Discovery Material that qualifies for protection under this Order are
17 not required to be marked.

18 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
19 Designating Party identify on the record, before the close of the deposition, hearing, or other
20 proceeding, all protected testimony.

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

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

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

3 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

4 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
5 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
6 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
7 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
8 challenge a confidentiality designation by electing not to mount a challenge promptly after the
9 original designation is disclosed.

10 6.2 Meet and Confer. The Party challenging the designation of confidentiality must do
11 so in good faith and must begin the process by conferring directly in writing with counsel for the
12 Designating Party. In conferring, the Challenging Party must explain the basis for its belief that the
13 confidentiality designation was not proper and must give the Designating Party an opportunity to
14 review the designated material, to reconsider the designation, and, if no change in designation is
15 offered, to explain the basis for the designation. The Designating Party must respond to the
16 challenge within 14 days of the date of service of notice.

17 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
18 intervention, the Designating Party may file and serve a motion to retain confidentiality within 21
19 days of the initial notice of challenge or within 14 days of the parties agreeing that the meet and
20 confer process will not resolve their dispute, whichever is earlier. In addition, the Challenging
21 Party may file a motion challenging a confidentiality designation at any time if there is good cause
22 for doing so, including a challenge to the designation of a deposition transcript or any portions
23 thereof. Any motion brought pursuant to this provision must be accompanied by a competent
24 declaration affirming that the movant has complied with the meet and confer requirements imposed
25 by the preceding paragraph.

26 The burden of persuasion in any such challenge proceeding shall be on the Designating
27 Party. Until the court rules on the challenge, all parties shall continue to afford the material in
28 question the level of protection to which it is entitled under the Producing Party's designation.

1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
3 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
4 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
5 the categories of persons and under the conditions described in this Order. When the litigation has
6 been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
7 DISPOSITION). Protected Material must be stored and maintained by a Receiving Party at a
8 location and in a secure manner that ensures that access is limited to the persons authorized under
9 this Order.

10 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
11 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
12 information or item designated “CONFIDENTIAL” only to:

13 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of
14 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for
15 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is
16 attached hereto as Exhibit A;

17 (b) the officers, directors, and employees (including House Counsel) of the Receiving Party
18 to whom disclosure is reasonably necessary for this litigation and who have signed the
19 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

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

23 (d) the court and its personnel;

24 (e) court reporters and their staff, professional jury or trial consultants, mock jurors, and
25 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
26 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

27 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
28 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),

1 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed
2 deposition testimony or exhibits to depositions that reveal Protected Material must be separately
3 bound by the court reporter and may not be disclosed to anyone except as permitted under this
4 Stipulated Protective Order.

5 (g) the author or recipient of a document containing the information or a custodian or other
6 person who otherwise possessed or knew the information.

7 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
8 LITIGATION

9 If a Party is served with a subpoena or a court order issued in other litigation that would
10 compel disclosure of any material or document designated in this action as “CONFIDENTIAL,”
11 that Party must:

12 (a) notify the designating Party, in writing, immediately and in no event more than 3
13 court days after receiving the subpoena or order. Such notification must include a copy of the
14 subpoena or court order.

15 (b) immediately inform, in writing, the Party who caused the subpoena or order to issue
16 in the other litigation that some or all of the material covered by the subpoena or order is the subject
17 of this Order. In addition, the Party must deliver a copy of this Order promptly to the party in the
18 other action that caused the subpoena to issue.

19 The purpose of imposing these duties is to alert the interested persons to the existence of this
20 Order and to afford the Designating Party in this case an opportunity to try to protect information
21 designated in this action as “CONFIDENTIAL” in the court from which the subpoena or order
22 issued. The Designating Party shall bear the burden and expense of seeking protection in that court
23 of its confidential material – and nothing in these provisions should be construed as authorizing or
24 encouraging a Receiving Party in this action to disobey a lawful directive from another court. The
25 obligations set forth in this paragraph remain in effect while the Party has in its possession, custody
26 or control information designed as “CONFIDENTIAL” in this case.

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

3 (a) The terms of this Order are applicable to information produced by a Non-Party in this
4 action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in
5 connection with this litigation is protected by the remedies and relief provided by this Order.
6 Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional
7 protections.

8 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-
9 Party’s confidential information in its possession, and the Party is subject to an agreement with the
10 Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

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

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

16 (3) make the information requested available for inspection by the Non-Party.

17 (c) If the Non-Party fails to object or seek a protective order from this court within 14 days
18 of receiving the notice and accompanying information, the Receiving Party may produce the Non-
19 Party’s confidential information responsive to the discovery request. If the Non-Party timely seeks
20 a protective order, the Receiving Party shall not produce any information in its possession or
21 control that is subject to the confidentiality agreement with the Non-Party before a determination by
22 the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of
23 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 Protected
26 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,
27 the Receiving Party must immediately (a) notify in writing the Designating Party of the
28 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected

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

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

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

14 12. MISCELLANEOUS

15 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
16 seek its modification by the court in the future.

17 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
18 no Party waives any right it otherwise would have to object to disclosing or producing any
19 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
20 Party waives any right to object on any ground to use in evidence of any of the material covered by
21 this Protective Order.

22 12.3 Filing Protected Material. Without written permission from the Designating Party or
23 a court order secured after appropriate notice to all interested persons, a Party may not file in the
24 public record in this action any Protected Material. A Party that seeks to file under seal any
25 Protected Material must comply with Civil Local Rule 141. Protected Material may only be filed
26 under seal pursuant to a court order authorizing the sealing of the specific Protected Material at
27 issue.

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1 13. FINAL DISPOSITION

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

17 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

18 Dated: September 3, 2020

19 /s/ Robin Workman
20 WORKMAN LAW FIRM, PC
21 Robin Workman
22 Rachel Davey
23 Attorneys for Plaintiff
24 MARK ANDERSON

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
[print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Eastern District of California on _____ in the case of *Anderson v. Safe Streets USA LLC*, Case No. 2:18-cv-00323-KJM-EFB. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

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

I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____