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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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12 JOHN T. MOONEY,

13 Plaintiff,

14 vs.

15 GOLDMAN, SACHS AND CO.; THE
16 GOLDMAN SACHS GROUP, INC.;
17 CHRIS LALLI, an individual and
employee of Goldman, Sachs and Co.
and/or The Goldman Sachs Group, Inc.;
and DOES 1 through 50, inclusive,

18 Defendants.

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CASE NO. 3:09-CV-02653-MMC

**CONFIDENTIALITY AGREEMENT AND
JOINT STIPULATION FOR
PROTECTIVE ORDER; ~~PROPOSED~~
ORDER**

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19 GOLDMAN, SACHS & CO., THE GOLDMAN SACHS
GROUP, INC., and CHRISTOPHER LALLI
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1 designation may be corrected by written notification to counsel of record for the other party so
2 long as the correction is made promptly after discovery of the omission.

3 5. Wherever it appears that confidential information may be revealed in a deposition
4 or evidentiary proceeding, a party may designate the material as "CONFIDENTIAL" on the
5 record at the time of its disclosure or within 30 days after the party's receipt of the deposition
6 transcript. Upon such designation, the portion of the deposition containing confidential
7 information will be subject to the terms of this order.

8 6. "CONFIDENTIAL" material includes all material designated "CONFIDENTIAL"
9 pursuant to the terms of this order, as well as summaries and compilations derived from such
10 materials, including but not limited to charts, tables, graphs and models.

11 B. Qualified Persons.

12 1. Access to "CONFIDENTIAL" materials, as well as written or oral summaries or
13 accounts thereof, will be limited to the following "QUALIFIED PERSONS:"

- 14 a. the parties to this litigation who have signed the attached agreement to be
15 personally bound by this order;
- 16 b. officers, directors, in-house counsel, in-house legal staff, or employees of
17 the parties to this litigation who are assisting counsel in the analysis and
18 preparation of litigation;
- 19 c. counsel of record for the parties to this litigation, including office
20 associates, paralegals, stenographic and clerical employees;
- 21 d. court personnel, including stenographic reporters engaged in such
22 proceedings as are necessarily incident to this litigation;
- 23 e. experts and consultants retained for the purpose of this litigation, provided,
24 however, that before such persons are shown or receive any
25 "CONFIDENTIAL" materials, they first sign the attached agreement
26 (Exhibit A) to be personally bound by this order; and
- 27 f. witnesses interviewed by a party's representatives or counsel, or persons
28 deposed in this litigation, with a need to review "CONFIDENTIAL"

1 materials, provided, however, that before such persons are shown or receive
2 any "CONFIDENTIAL" materials, they first sign the attached agreement
3 (Exhibit A) to be personally bound by this order.

4 C. Use of Confidential Information.

5 1. Except upon prior written consent of the party or counsel for the party asserting the
6 "CONFIDENTIAL" designation or upon further order of this Court, documents, testimony,
7 information, or material designated as "CONFIDENTIAL" will be held in strictest confidence,
8 will be kept securely, and will be used solely for the purpose of prosecution or defense of this
9 litigation and not for any business or other purpose whatsoever.

10 2. No materials designated as "CONFIDENTIAL" will be disclosed or made
11 available to any person except a "QUALIFIED PERSON." "QUALIFIED PERSONS" will not
12 use a "CONFIDENTIAL" document or material for any purpose other than analysis for
13 preparation and trial of this action. No party, including any "QUALIFIED PERSON," will make
14 more copies of any "CONFIDENTIAL" document or material than are reasonably necessary to
15 conduct this litigation. The substance or content of "CONFIDENTIAL" materials will not be
16 disclosed to anyone other than a "QUALIFIED PERSON."

17 3. Any party who discloses a "CONFIDENTIAL" document or material to an expert,
18 consultant, or witness, will maintain the signed written acknowledgements (Exhibit A) that such
19 individuals are personally bound by this order, but will not be required to disclose the identities of
20 persons having reviewed the "CONFIDENTIAL" materials.

21 4. If any party, or such party's counsel, objects to the designation of any document or
22 material as "CONFIDENTIAL," the objecting party will give the designating party notice of the
23 party's objection. If a meet-and-confer on the topic is unsuccessful, the designating party will
24 have twenty-five (25) days from the conclusion of the meet-and-confer to move the Court for an
25 order designating the document confidential. Unless and until an order is entered to the contrary,
26 the material will be given the "CONFIDENTIAL" treatment initially assigned to it and provided
27 for in this order. The designating party will have the burden of establishing that the materials are
28 deserving of confidential treatment in any such motion proceedings.

1 5. Whenever any document or material designated as “CONFIDENTIAL” is used or
2 submitted to the court in conjunction with any filing or proceeding in this litigation, the parties
3 will comply with this District’s Local Rules 3-17 and 79-5, and will follow the procedures set
4 forth under the aforementioned Rules.

5 6. This order will not prevent any party from seeking modification of this protective
6 order or from objecting to discovery that it believes to be otherwise improper.

7 D. Waiver.

8 1. The inadvertent or unintentional disclosure of “CONFIDENTIAL” materials will
9 not be construed as a waiver, in whole or in part, of the producing party’s claims that the disclosed
10 materials are “CONFIDENTIAL” and subject to the terms of this order.

11 2. The failure of a party to seek enforcement of this protective order will not be a
12 waiver of this order, and any waiver of this order by such party as to specific “CONFIDENTIAL”
13 materials will not be a waiver as to any other “CONFIDENTIAL” materials.

14 E. Retention and Return of Confidential Documents and Materials.

15 1. Thirty (30) days after the final determination of this action, counsel of record for
16 each party receiving “CONFIDENTIAL” documents or materials will, upon written demand,
17 assemble and return to the producing party, or counsel for that party, all such “CONFIDENTIAL”
18 materials as well as copies of such “CONFIDENTIAL” materials, including such materials in the
19 possession of experts or other “QUALIFIED PERSONS” who received “CONFIDENTIAL”
20 material from counsel.

21 2. The provisions of this order will survive and remain in full force and effect
22 notwithstanding the entry of a final judgment in this case. The parties expressly agree that the
23 obligation to maintain the confidentiality of the material so designated continues beyond the entry
24 of final judgment. This Court retains jurisdiction to enforce, construe, interpret, and amend the
25 provisions of this order. Following the conclusion of this litigation, the parties may seek leave to
26 reopen the case to enforce the provisions of this order, or to obtain such direction or further decree
27 as may be appropriate for the interpretation or enforcement of this order.

28 F. Miscellaneous.

1 1. Any amendment or modification of this order will be in writing and signed by the
2 parties hereto.

3 2. Any party may make whatever use it deems appropriate of its own
4 "CONFIDENTIAL" documents and materials, except if the party discloses the document to a
5 third party not bound by this order (other than by means of an inadvertent or unintentional
6 disclosure), then the document will no longer be eligible for treatment under this order as
7 "CONFIDENTIAL."

8 3. This order will be governed by the United States Code, the Federal Rules of Civil
9 Procedure, and the California law.

10 G. Violation of the Order.

11 In addition to other remedies available to the parties, violation of this order will
12 subject the violator to all appropriate sanctions as provided under law.

13 Dated: ~~September~~ ^{October 1} 2009

M. KIRBY C. WILCOX
KATHERINE C. HUIBONHOA
PAUL, HASTINGS, JANOFSKY & WALKER LLP

16 By: 
17 _____
KATHERINE C. HUIBONHOA

18
19 Attorneys for Defendants
GOLDMAN, SACHS & CO., THE GOLDMAN SACHS
20 GROUP, INC., and CHRISTOPHER LALLI

21 Dated: September 25, 2009

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23 GINA DEVITO
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26 By: 

JACQUELINE C. FAGERLIN

27 Attorneys for Plaintiff
28 JOHN T. MOONEY

1 **EXHIBIT A**

2
3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN FRANCISCO DIVISION**
6

7 **JOHN T. MOONEY,**

8 **Plaintiff,**

9 **vs.**

10 **GOLDMAN, SACHS AND CO.; THE**
11 **GOLDMAN SACHS GROUP, INC.;**
12 **CHRIS LALLI, an individual and**
13 **employee of Goldman, Sachs and Co.**
14 **and/or The Goldman Sachs Group, Inc.;**
15 **and DOES 1 through 50, inclusive,**

16 **Defendants.**

Case No. 3:09-CV-02653-MMC

**UNDERSTANDING AND AGREEMENT
PURSUANT TO PROTECTIVE ORDER**

17 By signing this document, I hereby certify that I have read the protective order (the
18 "Order") entered by the Court in this action. I understand the responsibilities and obligations the
19 Order imposes on persons viewing the material encompassed by the Order, and I agree to be
20 bound by all of the provisions of the Order, so as to enable me to view the material encompassed
21 by the Order. I understand that any violation of the Order by me or anyone acting under my
22 direction may subject me to penalties for contempt of Court and/or other relief sought by a party
23 to the above-captioned matter. I hereby consent to the personal and subject matter jurisdiction
24 over me by the Court for purposes of enforcing my agreement here.

25 Dated: _____ Signature: _____

26 Name (Printed): _____