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15 Attorneys for Defendants  
 BRONCO WINE COMPANY,  
 16 PANTHER ROCK WINES, LLC,  
 CLASSIC WINES OF CALIFORNIA, and  
 17 BARREL TEN QUARTER CIRCLE, INC.

18 UNITED STATES DISTRICT COURT  
 19 NORTHERN DISTRICT OF CALIFORNIA

21 JC WAUGH WINE CO. LLC,

22 Plaintiff,

23 vs.

24 BRONCO WINE COMPANY, PANTHER  
 25 ROCK WINES, LLC, CLASSIC WINES  
 OF CALIFORNIA, BARREL TEN  
 26 QUARTER CIRCLE, INC. and DOES 1-  
 14,

27 Defendants.  
 28

CASE NO. 3:16-cv-06953 EMC

**STIPULATED PROTECTIVE ORDER  
 FOR LITIGATION INVOLVING  
 HIGHLY SENSITIVE CONFIDENTIAL  
 INFORMATION AND/OR TRADE  
 SECRETS**

1 Plaintiff JC Waugh Wine Co. LLC (“Plaintiff”) and Defendants Bronco Wine  
2 Company, Panther Rock Wines, LLC, Classic Wines of California, Barrel Ten Quarter Circle,  
3 Inc. (collectively, “Defendants”) (each a “Party”), through their respective counsel, hereby  
4 stipulate and agree to a protective order as follows:

5 **1. PURPOSES AND LIMITATIONS**

6 Disclosure and discovery activity in this action are likely to involve production of  
7 confidential, proprietary, or private information for which special protection from public  
8 disclosure and from use for any purpose other than prosecuting this litigation may be  
9 warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the  
10 following Stipulated Protective Order. The parties acknowledge that this Order does not confer  
11 blanket protections on all disclosures or responses to discovery and that the protection it  
12 affords from public disclosure and use extends only to the limited information or items that are  
13 entitled to confidential treatment under the applicable legal principles. The parties further  
14 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not  
15 entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the  
16 procedures that must be followed and the standards that will be applied when a party seeks  
17 permission from the court to file material under seal.

18 **2. DEFINITIONS**

19 2.1. Challenging Party: a Party or Non-Party that challenges the designation of  
20 information or items under this Order.

21 2.2. “CONFIDENTIAL” Information or Items: information (regardless of how it is  
22 generated, stored or maintained) or tangible things that qualify for protection under Federal  
23 Rule of Civil Procedure 26(c).

24 2.3. Counsel (without qualifier): Outside Counsel of Record.

25 2.4. Designating Party: a Party or Non-Party that designates information or items  
26 that it produces in disclosures or in responses to discovery as “CONFIDENTIAL” or  
27 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

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

5           2.6. Expert: a person with specialized knowledge or experience in a matter pertinent  
6 to the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness  
7 or as a consultant in this action, (2) is not a past or current employee of a Party or of a Party's  
8 competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party  
9 or of a Party's competitor.

10           2.7. "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or  
11 Items: extremely sensitive "Confidential Information or Items," disclosure of which to another  
12 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by  
13 less restrictive means.

14           2.8. House Counsel: attorneys who are employees of a Party. House Counsel does  
15 not include Outside Counsel of Record or any other outside counsel.

16           2.9. Non-Party: any natural person, partnership, corporation, association, or other  
17 legal entity not named as a Party to this action.

18           2.10. Outside Counsel of Record: attorneys who are not employees of a Party but are  
19 retained to represent or advise a Party and have appeared in this action on behalf of that Party  
20 or are affiliated with a law firm which has appeared on behalf of that Party.

21           2.11. Party: any party to this action, including all of its officers, directors, employees,  
22 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

23           2.12. Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
24 Material in this action.

25           2.13. Professional Vendors: persons or entities that provide litigation support services  
26 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and  
27 organizing, storing, or retrieving data in any form or medium) and their employees and  
28 subcontractors.

1           2.14. Protected Material: any Disclosure or Discovery Material that is designated as  
2 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

3           2.15. Receiving Party: a Party that receives Disclosure or Discovery Material from a  
4 Producing Party.

5           **3. SCOPE**

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

19           **4. DURATION**

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

27           **5. DESIGNATING PROTECTED MATERIAL**

1           5.1. Exercise of Restraint and Care in Designating Material for Protection. Each  
2 Party or Non-Party that designates information or items for protection under this Order must  
3 take care to limit any such designation to specific material that qualifies under the appropriate  
4 standards. To the extent it is practical to do so, the Designating Party must designate for  
5 protection only those parts of material, documents, items, or oral or written communications  
6 that qualify – so that other portions of the material, documents, items, or communications for  
7 which protection is not warranted are not swept unjustifiably within the ambit of this Order.

8           Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
9 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to  
10 unnecessarily encumber or retard the case development process or to impose unnecessary  
11 expenses and burdens on other parties) expose the Designating Party to sanctions.

12           If it comes to a Designating Party’s attention that information or items that it designated  
13 for protection do not qualify for protection at all or do not qualify for the level of protection  
14 initially asserted, that Designating Party must promptly notify all other parties that it is  
15 withdrawing the mistaken designation.

16           5.2. Timing of Designations. Except as otherwise provided in this Order (see, e.g.,  
17 second paragraph of Section 5.3(a) below), or as otherwise stipulated or ordered, Disclosure or  
18 Discovery Material that qualifies for protection under this Order must be clearly so designated  
19 before the material is disclosed or produced.

20           5.3. Manner of Designations. Designation in conformity with this Order requires:

21           (a) for information in documentary form (e.g., paper or electronic  
22 documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that  
23 the Producing Party affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
24 ATTORNEYS’ EYES ONLY” to each page that contains protected material. If only a portion  
25 or portions of the material on a page qualifies for protection, the Producing Party also must  
26 clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins)  
27 and must specify, for each portion, the level of protection being asserted.

1 A Party or Non-Party that makes original documents or materials available for  
2 inspection need not designate them for protection until after the inspecting Party has indicated  
3 which material it would like copied and produced. During the inspection and before the  
4 designation, all of the material made available for inspection shall be deemed “HIGHLY  
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified  
6 the documents it wants copied and produced, the Producing Party must determine which  
7 documents, or portions thereof, qualify for protection under this Order. Then, before producing  
8 the specified documents, the Producing Party must affix the appropriate legend  
9 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to  
10 each page that contains Protected Material. If only a portion or portions of the material on a  
11 page qualifies for protection, the Producing Party also must clearly identify the protected  
12 portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each  
13 portion, the level of protection being asserted.

14 (b) for testimony given in deposition or in other pretrial or trial proceedings,  
15 that the Designating Party identify on the record, before the close of the deposition, hearing, or  
16 other proceeding, all protected testimony and specify the level of protection being asserted.  
17 When it is impractical to identify separately each portion of testimony that is entitled to  
18 protection and it appears that substantial portions of the testimony may qualify for protection,  
19 the Designating Party may invoke on the record (before the deposition, hearing, or other  
20 proceeding is concluded) a right to have up to 21 days to identify the specific portions of the  
21 testimony as to which protection is sought and to specify the level of protection being asserted.  
22 Only those portions of the testimony that are appropriately designated for protection within the  
23 21 days shall be covered by the provisions of this Stipulated Protective Order. Alternatively, a  
24 Designating Party may specify, at the deposition or up to 21 days afterwards if that period is  
25 properly invoked, that the entire transcript shall be treated as “CONFIDENTIAL” or  
26 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

27 Parties shall give the other parties notice if they reasonably expect a deposition, hearing  
28 or other proceeding to include Protected Material so that the other parties can ensure that only

1 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”  
2 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a  
3 deposition shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY  
4 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

5 Transcripts containing Protected Material shall have an obvious legend on the title page  
6 that the transcript contains Protected Material, and the title page shall be followed by a list of  
7 all pages (including line numbers as appropriate) that have been designated as Protected  
8 Material and the level of protection being asserted by the Designating Party. The Designating  
9 Party shall inform the court reporter of these requirements. Any transcript that is prepared  
10 before the expiration of a 21-day period for designation shall be treated during that period as if  
11 it had been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its  
12 entirety unless otherwise agreed. After the expiration of that period, the transcript shall be  
13 treated only as actually designated.

14 (c) for information produced in some form other than documentary and for  
15 any other tangible items, that the Producing Party affix in a prominent place on the exterior of  
16 the container or containers in which the information or item is stored the legend  
17 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. If only  
18 a portion or portions of the information or item warrant protection, the Producing Party, to the  
19 extent practicable, shall identify the protected portion(s) and specify the level of protection  
20 being asserted.

21 5.4. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
22 designate qualified information or items does not, standing alone, waive the Designating  
23 Party’s right to secure protection under this Order for such material. Upon timely correction of  
24 a designation, the Receiving Party must make reasonable efforts to assure that the material is  
25 treated in accordance with the provisions of this Order.

## 26 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

27 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of  
28 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality

1 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
2 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to  
3 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
4 original designation is disclosed.

5         6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution  
6 process by providing written notice of each designation it is challenging and describing the  
7 basis for each challenge. To avoid ambiguity as to whether a challenge has been made, the  
8 written notice must recite that the challenge to confidentiality is being made in accordance with  
9 this specific paragraph of the Protective Order. The parties shall attempt to resolve each  
10 challenge in good faith and must begin the process by conferring directly (in voice to voice  
11 dialogue; other forms of communication are not sufficient) within 14 days of the date of  
12 service of notice. In conferring, the Challenging Party must explain the basis for its belief that  
13 the confidentiality designation was not proper and must give the Designating Party an  
14 opportunity to review the designated material, to reconsider the circumstances, and, if no  
15 change in designation is offered, to explain the basis for the chosen designation. A Challenging  
16 Party may proceed to the next stage of the challenge process only if it has engaged in this meet  
17 and confer process first or establishes that the Designating Party is unwilling to participate in  
18 the meet and confer process in a timely manner.

19         6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court  
20 intervention, the Designating Party shall file and serve a motion to retain confidentiality under  
21 Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) within 21  
22 days of the initial notice of challenge or within 14 days of the parties agreeing that the meet  
23 and confer process will not resolve their dispute, whichever is earlier. Each such motion must  
24 be accompanied by a competent declaration affirming that the movant has complied with the  
25 meet and confer requirements imposed in the preceding paragraph. Failure by the Designating  
26 Party to make such a motion including the required declaration within 21 days (or 14 days, if  
27 applicable) shall automatically waive the confidentiality designation for each challenged  
28 designation. In addition, the Challenging Party may file a motion challenging a confidentiality



1 designation at any time if there is good cause for doing so, including a challenge to the  
2 designation of a deposition transcript or any portions thereof. Any motion brought pursuant to  
3 this provision must be accompanied by a competent declaration affirming that the movant has  
4 complied with the meet and confer requirements imposed by the preceding paragraph.

5 The burden of persuasion in any such challenge proceeding shall be on the Designating  
6 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose  
7 unnecessary expenses and burdens on other parties) may expose the Challenging Party to  
8 sanctions. Unless the Designating Party has waived the confidentiality designation by failing to  
9 file a motion to retain confidentiality as described above, all parties shall continue to afford the  
10 material in question the level of protection to which it is entitled under the Producing Party's  
11 designation until the court rules on the challenge.

## 12 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

13 7.1. Basic Principles. A Receiving Party may use Protected Material that is disclosed  
14 or produced by another Party or by a Non-Party in connection with this case only for  
15 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be  
16 disclosed only to the categories of persons and under the conditions described in this Order.  
17 When the litigation has been terminated, a Receiving Party must comply with the provisions of  
18 Section 13 below.

19 Protected Material must be stored and maintained by a Receiving Party at a location  
20 and in a secure manner that ensures that access is limited to the persons authorized under this  
21 Order.

22 7.2. Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise  
23 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may  
24 disclose any information or item designated "CONFIDENTIAL" only to:

25 (a) the Receiving Party's Outside Counsel of Record in this action, as well  
26 as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose  
27 the information for this litigation and who have signed the "Acknowledgment and Agreement  
28 to Be Bound" that is attached hereto as Exhibit A;

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

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

7 (d) the court and its personnel;

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

11 (f) during their depositions, witnesses in the action to whom disclosure is  
12 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be  
13 Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court.  
14 Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected  
15 Material must be separately bound by the court reporter and may not be disclosed to anyone  
16 except as permitted under this Stipulated Protective Order.

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

19 7.3. Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
20 Information or Items. Unless otherwise ordered by the court or permitted in writing by the  
21 Designating Party, a Receiving Party may disclose any information or item designated  
22 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

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

27 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably  
28 necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be

1 Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below,  
2 have been followed;

3 (c) the court and its personnel;

4 (d) court reporters and their staff, professional jury or trial consultants, and  
5 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who  
6 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

7 (e) the author or recipient of a document containing the information or a  
8 custodian or other person who otherwise possessed or knew the information.

9 7.4. Procedures for Approving or Objecting to Disclosure of “HIGHLY  
10 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to Experts.

11 (a) Unless otherwise ordered by the court or agreed to in writing by the Designating  
12 Party, a Party that seeks to disclose to an Expert (as defined in this Order) any information or  
13 item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
14 pursuant to paragraph 7.3(c) first must make a written request to the Designating Party that (1)  
15 identifies the general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
16 ONLY” information that the Receiving Party seeks permission to disclose to the Expert, (2)  
17 sets forth the full name of the Expert and the city and state of his or her primary residence, (3)  
18 attaches a copy of the Expert’s current resume, and (4) identifies the Expert’s current  
19 employer(s).

20 (b) A Party that makes a request and provides the information specified in the  
21 preceding respective paragraphs may disclose the subject Protected Material to the identified  
22 Expert unless, within 14 days of delivering the request, the Party receives a written objection  
23 from the Designating Party. Any such objection must set forth in detail the grounds on which it  
24 is based.

25 (c) A Party that receives a timely written objection must meet and confer with the  
26 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by  
27 agreement within seven days of the written objection. If no agreement is reached, the Party  
28 seeking to make the disclosure to the Expert may file a motion as provided in Civil Local Rule

1 7 (and in compliance with Civil Local Rule 79-5, if applicable) seeking permission from the  
2 court to do so. Any such motion must describe the circumstances with specificity, set forth in  
3 detail the reasons why the disclosure to the Expert is reasonably necessary, assess the risk of  
4 harm that the disclosure would entail, and suggest any additional means that could be used to  
5 reduce that risk. In addition, any such motion must be accompanied by a competent declaration  
6 describing the parties' efforts to resolve the matter by agreement (i.e., the extent and the  
7 content of the meet and confer discussions) and setting forth the reasons advanced by the  
8 Designating Party for its refusal to approve the disclosure.

9 In any such proceeding, the Party opposing disclosure to the Expert shall bear the  
10 burden of proving that the risk of harm that the disclosure would entail (under the safeguards  
11 proposed) outweighs the Receiving Party's need to disclose the Protected Material to its  
12 Expert.

13 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**  
14 **LITIGATION**

15 8.1. If a Party is served with a subpoena or a court order issued in other litigation  
16 that compels disclosure of any information or items designated in this action as  
17 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" that  
18 Party must:

19 (a) promptly notify in writing the Designating Party. Such notification shall  
20 include a copy of the subpoena or court order;

21 (b) promptly notify in writing the party who caused the subpoena or order to  
22 issue in the other litigation that some or all of the material covered by the subpoena or order is  
23 subject to this Protective Order. Such notification shall include a copy of this Stipulated  
24 Protective Order; and

25 (c) cooperate with respect to all reasonable procedures sought to be pursued  
26 by the Designating Party whose Protected Material may be affected.

27 If the Designating Party timely seeks a protective order, the Party served with the subpoena or  
28 court order shall not produce any information designated in this action as "CONFIDENTIAL"

1 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” before a determination by  
2 the court from which the subpoena or order issued, unless the Party has obtained the  
3 Designating Party’s permission. The Designating Party shall bear the burden and expense of  
4 seeking protection in that court of its confidential material – and nothing in these provisions  
5 should be construed as authorizing or encouraging a Receiving Party in this action to disobey a  
6 lawful directive from another court.

7 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**  
8 **THIS LITIGATION**

9 9.1. The terms of this Order are applicable to information produced by a Non-Party  
10 in this action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
11 ATTORNEYS’ EYES ONLY”. Such information produced by Non-Parties in connection with  
12 this litigation is protected by the remedies and relief provided by this Order. Nothing in these  
13 provisions should be construed as prohibiting a Non-Party from seeking additional protections.

14 9.2. In the event that a Party is required, by a valid discovery request, to produce a  
15 Non-Party’s confidential information in its possession, and the Party is subject to an agreement  
16 with the Non-Party not to produce the Non-Party’s confidential information, then the Party  
17 shall:

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

21 (b) promptly provide the Non-Party with a copy of the Stipulated Protective  
22 Order in this litigation, the relevant discovery request(s), and a reasonably specific description  
23 of the information requested; and

24 (c) make the information requested available for inspection by the Non-  
25 Party.

26 9.3. If the Non-Party fails to object or seek a protective order from this court within  
27 14 days of receiving the notice and accompanying information, the Receiving Party may  
28 produce the Non-Party’s confidential information responsive to the discovery request. If the

1 Non-Party timely seeks a protective order, the Receiving Party shall not produce any  
2 information in its possession or control that is subject to the confidentiality agreement with the  
3 Non-Party before a determination by the court. Absent a court order to the contrary, the Non-  
4 Party shall bear the burden and expense of seeking protection in this court of its Protected  
5 Material.

6 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

7 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
8 Material to any person or in any circumstance not authorized under this Stipulated Protective  
9 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the  
10 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the  
11 Protected Material, (c) inform the person or persons to whom unauthorized disclosures were  
12 made of all the terms of this Order, and (d) request such person or persons to execute the  
13 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

14 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
15 **PROTECTED MATERIAL**

16 When a Producing Party gives notice to Receiving Parties that certain inadvertently  
17 produced material is subject to a claim of privilege or other protection, the obligations of the  
18 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This  
19 provision is not intended to modify whatever procedure may be established in an e-discovery  
20 order that provides for production without prior privilege review.

21 **12. MISCELLANEOUS**

22 12.1. Right to Further Relief. Nothing in this Order abridges the right of any person to  
23 seek its modification by the court in the future.

24 12.2. Right to Assert Other Objections. By stipulating to the entry of this Protective  
25 Order no Party waives any right it otherwise would have to object to disclosing or producing  
26 any information or item on any ground not addressed in this Stipulated Protective Order.  
27 Similarly, no Party waives any right to object on any ground to use in evidence of any of the  
28 material covered by this Protective Order.

1           12.3. Filing Protected Material. Without written permission from the Designating  
2 Party or a court order secured after appropriate notice to all interested persons, a Party may not  
3 file in the public record in this action any Protected Material. A Party that seeks to file under  
4 seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may  
5 only be filed under seal pursuant to a court order authorizing the sealing of the specific  
6 Protected Material at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only  
7 upon a request establishing that the Protected Material at issue is privileged, protectable as a  
8 trade secret, or otherwise entitled to protection under the law. If a Receiving Party's request to  
9 file Protected Material under seal pursuant to Civil Local Rule 79-5(e) is denied by the court,  
10 then the Receiving Party may file the Protected Material in the public record pursuant to Civil  
11 Local Rule 79-5(e)(2) unless otherwise instructed by the court.

12           **13. FINAL DISPOSITION**

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

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**IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

DICKENSON, PEATMAN & FOGARTY

Dated: June 5, 2017

By: /s/ Christopher J. Passarelli

Christopher J. Passarelli  
Joy L. Durand

Attorneys for Plaintiff,  
JC WAUGH WINE CO. LLC

ROPES & GRAY LLP

Dated: May 27, 2017

By: /s/ Marta F. Belcher

Peter M. Brody  
Marta F. Belcher

Attorneys for Defendants,  
BRONCO WINE COMPANY, PANTHER  
ROCK WINES, LLC, CLASSIC WINES OF  
CALIFORNIA, and BARREL TEN QUARTER  
CIRCLE, INC.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: 6/6/17

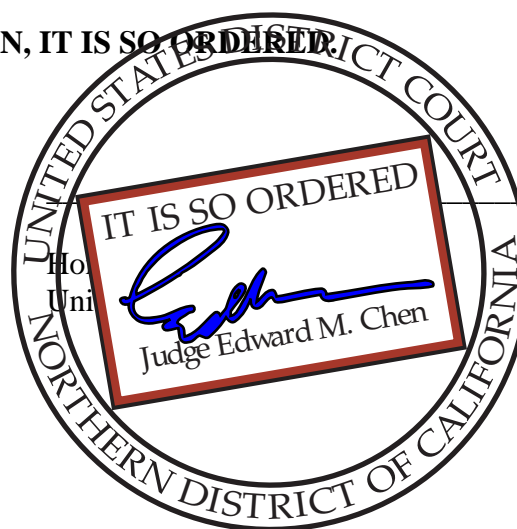




EXHIBIT A

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_, of \_\_\_\_\_ [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 Northern District of California in the case of *JC Waugh Wine Co. LLC v. Bronco Wine Company, et al.*, Civil Case No. 3:16-cv-06953-EMC. 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 Northern 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 \_\_\_\_\_ [Name] of \_\_\_\_\_ [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: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_

\_\_\_\_\_  
City, State where sworn and signed