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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JPMorgan Chase Bank, N.A.,)	Case No. <u>16-mc-80220-EMC (DMC)</u>
)	
Applicant,)	
)	<u>STIPULATED PROTECTIVE ORDER</u>
vs.)	
)	
Brian Berson,)	
)	
Respondent.)	
)	
)	
)	

1 **PROTECTIVE ORDER**

2 WHEREAS, JP Morgan Chase Bank, N.A. (“Chase”) served a Subpoena on Brian Berson
3 seeking documents relevant to *Mansor v. JPMorgan Chase Bank, N.A.*, Civil Action No. 1:12-CV-
4 10544-JGD, pending in the United States District Court for the District of Massachusetts (“*Mansor*
5 *Action*”);

6 WHEREAS, Mr. Berson has documents responsive to the Subpoena which contain confidential
7 and/or personal identifying information;

8 WHEREAS, the parties have agreed to, and the Court hereby enters, this Protective Order
9 (“Order”) to limit the inappropriate or unlawful disclosure of such confidential and personal identifying
10 information;

11 NOW THEREFORE, it is hereby ordered, pursuant to Rule 26(c) of the Federal Rules of Civil
12 Procedure, that the procedures set forth herein shall govern the production and use of all documents
13 under the Subpoena.

14 **DEFINITIONS**

15 A. The “Action” means all proceedings in the above-styled action.

16 B. The “*Mansor Action*” means the case-captioned *Mansor v. JPMorgan Chase Bank, N.A.*,
17 Civil Action No. 1:12-CV-10544-JGD, pending in the United States District Court for the District of
18 Massachusetts.

19 B. “Party” means all the current and any future parties to this Action.

20 C. “Third-Party” means any natural person, partnership, corporation, association, or other
21 legal entity not a party to this Action.

22 D. “Producing Party” means Mr. Berson.

23 E. “Outside Counsel” means the law firm(s) that have entered an appearance for one or
24 more Parties in the Action or, such additional law firm(s) that enter an appearance for a Party in the
25 Action, and the law firm(s) designated by a Third-Party to respond to discovery requests by the Parties
26 in the Action, including, with respect to each of the foregoing, their associated attorneys and other
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1 persons regularly employed by them, and temporary personnel retained by them to perform legal or
2 clerical duties or to provide logistical litigation support in the Action.

3 F. "In-House Counsel" means any attorney who is an employee in the legal department of a
4 Party whose responsibilities include overseeing or other involvement in or with respect to the Action.

5 G. "Expert/Consultant" means experts or other consultants (and their assistants and staff)
6 who are not employed by or otherwise regularly affiliated with any Party but are retained to assist a
7 Party or Outside Counsel in the Action and who agree in writing to be subject to and bound by the terms
8 of this Protective Order.

9 H. "Document" shall have the meaning ascribed to it in Federal Rule of Civil Procedure
10 34(a) and shall include all "writings," "recordings" and "photographs" as those terms are defined in Rule
11 1001 of the Federal Rules of Evidence and ESI as defined in the Federal Rules of Civil Procedure.

12 Without limiting the generality of the foregoing, "document" includes the complete original or a true,
13 correct and complete copy and any non-identical copies of any written or graphic matter, no matter how
14 produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope,
15 telegram, meeting minute, memorandum, statement, affidavit, declaration, book, record, survey, map,
16 study, handwritten note, working paper, chart, index, tabulation, graph, tape, data sheet, data processing
17 card, printout, microfilm, index, computer readable media or other electronically stored data,
18 appointment book, diary, diary entry, calendar, desk pad, telephone message slip, note of interview or
19 communication or any other data compilation, including all drafts of all such documents. "Document"
20 also includes every writing, drawing, graph, chart, photograph, phono record, tape and other data
21 compilations from which information can be obtained, and includes all drafts and all copies of every
22 such writing or record that contain any commentary, note, or marking whatsoever not appearing on the
23 original.

24 I. "Discovery Material" includes without limitation deposition testimony, deposition
25 exhibits, interrogatory responses, admissions, affidavits, declarations, and Documents (whether paper or
26 electronic and whether generated or received by the Party possessing them) disclosed by a Party or
27 Third-Party in connection with the Action, including those produced pursuant to compulsory process or
28 voluntarily.

1 **TERMS AND CONDITIONS**

2 1. General Terms.

3 (a) This Protective Order shall govern all Discovery Material in the Action. This Protective
4 Order is binding upon Chase, including its corporate parent, subsidiaries and affiliates and their
5 respective attorneys, agents, representatives, officers and employees.
6

7 (b) All Discovery Material in the Action may be used only to evaluate, prosecute or defend a
8 claim in this Action or the *Mansor* Action and for no other purpose, including any business purpose.

9 2. Scope. All documents produced by Mr. Berson in response to the Subpoena will be
10 deemed “CONFIDENTIAL” without the need for Mr. Berson to affix a label on the document or any
11 physical medium, such as a CD-Rom, DVD, that is produced to Chase. Mr. Berson has a good faith
12 belief that the documents responsive to the Subpoena contain information protected from disclosure by
13 statute or regulation or other law or that should be protected from disclosure as confidential personal
14 information, trade secrets, personnel records, or sensitive business or commercial information that Mr.
15 Berson believes is not public or otherwise generally known in the relevant industry.
16

17 3. Disclosure of “Personal Identifying Information.”

18 (a) “Personal Identifying Information,” shall mean any information that constitutes
19 “nonpublic personal information” within the meaning of the Gramm-Leach-Bliley Act, 15 U.S.C. §
20 6802 *et seq.*, and its implementing regulations, including, but not limited to, any portion of a mortgage
21 loan file or other document which includes financial or credit information for any person (including any
22 credit history, report or score obtained on any such person to determine the individual’s eligibility for
23 credit), together with personally identifiable information with respect to such person, including, but not
24 limited to, name, address, Social Security number, loan number, telephone number, or place or position
25 of work. As set forth in Section 3(b) below, this Order authorizes the disclosure of such Personal
26 Identifying Information in this action.
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1 (b) To the extent any federal or state law or other legal authority governing the disclosure or
2 use of Personal Identifying Information (hereinafter, "Personal Identifying Information Law") permits
3 disclosure of such information pursuant to an order of a court, this Order shall constitute compliance
4 with such requirement. To the extent any Personal Identifying Information Law requires a Party to
5 obtain a court-ordered subpoena or give notice to or obtain consent, in any form or manner, from any
6 person or entity before disclosure of any Personal Identifying Information, the Court finds that, in view
7 of the protections provided for the information disclosed in this Order, the volume of documents to be
8 produced and the ongoing oversight of the Court, there is good cause to excuse such requirement, and
9 this Order shall constitute an express direction that the Party is exempted from obtaining a court-ordered
10 subpoena or having to notify and/or obtain consent from any person or entity prior to the disclosure of
11 Personal Identifying Information. To the extent that any Personal Identifying Information Law requires
12 that any person or entity be notified prior to disclosure of Personal Identifying Information except where
13 such notice is prohibited by court order, the Court directs that, in view of the protections provided for
14 the information disclosed in this Order, the volume of documents to be produced and the ongoing
15 oversight of the Court, the parties are explicitly prohibited from providing such notice; provided,
16 however, that this Order shall not prohibit either Party from contacting any person or entity for any other
17 purpose. Any Producing Party may seek additional orders from this Court that such party believes may
18 be necessary to comply with any Personal Identifying Information Law.
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22 (c) All Parties shall comply with all applicable laws and regulations related to the protection
23 of Social Security numbers, financial institution account numbers and records, and any other "personal
24 identifying information," as defined by applicable laws or regulations.

25 (d) Chase will redact personal identifying information from all documents produced by Mr.
26 Berson prior to further dissemination of those documents to others, including to other counsel in the
27 *Mansor* Action.
28

1 4. Control of Documents. Counsel for Chase shall make reasonable efforts to prevent
2 unauthorized disclosure of Documents designated as “CONFIDENTIAL” pursuant to the terms of this
3 Order. Counsel for Chase will, prior to disclosing the Documents, affix to each document or to the label
4 on the document or any physical medium, such as a CD-Rom, DVD, a label designating the material as
5 “CONFIDENTIAL.”
6

7 (a) Copies. Prior to disclosure by Chase to any person authorized under this Order, all
8 copies, electronic images, duplicates, extracts, summaries or descriptions (hereinafter referred to
9 collectively as “copies”) of Documents designated as “CONFIDENTIAL” under this Order, or any
10 individual portion of such a Document, shall be affixed with the appropriate designation if the
11 designation does not already appear on the copy. All such copies shall thereafter be entitled to the
12 protection of this Order. The term “copies” shall not include indices, electronic databases or lists of
13 documents provided these indices, electronic databases or lists do not contain substantial portions or
14 images of the text of Documents or otherwise disclose the substance of the confidential information
15 contained in those Documents.
16

17 5. Protection of Confidential Documents.

18 (a) General Protections. Documents designated “CONFIDENTIAL” under this Order, and
19 any summaries, copies, abstracts or other documents derived in whole or in part from Documents so
20 designated shall be disclosed only to the persons identified in Paragraphs 5(b) below, and such
21 Documents shall be used only in connection with the prosecution, defense, appeal, or settlement of this
22 Action or the *Mansor* Action.
23

24 (b) Disclosure of “CONFIDENTIAL” Material. Disclosure of Documents provided by Mr.
25 Berson is limited to the following:

26 (1) Outside Counsel for Chase and employees of Outside Counsel who have
27 responsibility for the preparation and trial of the *Mansor* Action;
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1 (2) Plaintiffs and other potential members of the putative class in the *Mansor*
2 Action;

3 (3) Chase and employees of Chase, expressly including In-House Counsel;

4 (4) Court reporters and recorders engaged for depositions or other
5 proceedings in the *Mansor* Action;

6 (5) Contractors, such as those persons specifically engaged for the limited
7 purpose of making copies of Documents or organizing or processing Documents and completing other
8 litigation support tasks but only after each such person has completed the certification contained in
9 Attachment A, Acknowledgment of Understanding and Agreement to Be Bound or, if such contractors
10 are already bound by separate confidentiality agreements, no additional certification is needed;

11 (6) Consultants, investigators, and Experts/Consultants (hereinafter referred to
12 collectively as “Experts/Consultants”) employed or retained by Chase, its Outside Counsel or Plaintiffs’
13 counsel in the *Mansor* Action to assist in the preparation and trial of the *Mansor* Action but only after
14 such persons have completed the certification contained in Attachment A, Acknowledgment of
15 Understanding and Agreement to Be Bound;

16 (7) Persons who authored the Document, persons who received the Document
17 prior to the date of this Order, or persons who had lawful access to it while employed by a party to the
18 *Mansor* Action, or any witness whose deposition is noticed to be taken in and/or who has been identified
19 as a witness in the trial of the *Mansor* Action where there is evidence that such witness has personal
20 knowledge of the information or documents containing the information;

21 (8) The Court and court personnel in the above-styled action and in the
22 *Mansor* Action; and

23 (9) Other persons only by written consent of Mr. Berson or upon order of this
24 Court and on such conditions as may be agreed or ordered. All such persons shall execute the
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1 certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be
2 Bound.

3 6. Action by the Court. Applications for an order relating to Documents designated
4 “CONFIDENTIAL” or to disclose redacted Personal Identifying Information shall be by motion to this
5 Court under the applicable rules. Nothing in this Order or any action or agreement of a Party under this
6 Order limits either this Court’s power or the *Mansor* Court’s power to make orders concerning the
7 disclosure of Documents produced in discovery or at trial.
8

9 7. Use of Confidential Documents or Information at Trial. To the extent
10 “CONFIDENTIAL” Documents or information derived therefrom may be presented at a trial in the
11 *Mansor* Action, the parties to the *Mansor* Action shall identify the issue, not the information, in the
12 pretrial memorandum to the *Mansor* Court. The *Mansor* Court may thereafter make such orders as are
13 necessary to govern the use of such Documents or information at trial.
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15 8. Obligations on Conclusion of Litigation.

16 (a) Order Remains in Effect. Unless otherwise agreed or ordered, this Order shall remain in
17 force after dismissal or entry of final judgment not subject to further appeal in the *Mansor* Action.

18 (b) Return of Designated Documents. Within thirty days after dismissal or entry of final
19 judgment not subject to further appeal, all Documents produced under this Order, including copies as
20 defined in paragraph 4(a), shall be returned to Mr. Berson unless: (1) the Document has been offered
21 into evidence or filed without restriction as to disclosure; (2) the parties agree to destruction in lieu of
22 return; or (3) as to Documents bearing the notations, summations, or other mental impressions of the
23 receiving Party, that party elects to destroy the documents and certifies to the producing party that it has
24 done so. Notwithstanding the above requirements to return or destroy Documents, counsel may retain
25 attorney work product, including an index which refers or relates to information designated as
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1 confidential. This work product shall continue to be subject to the restrictions and confidentiality
2 provisions of this Order.

3 9. Order Subject to Modification. This Order shall be subject to modification by the Court
4 on its own motion or on motion of a Party or any other person with standing concerning the subject
5 matter.
6

7 10. No Prior Judicial Determination. This Order is entered based on the representations and
8 agreements of the Parties and for the purpose of facilitating discovery. Nothing herein shall be
9 construed or presented as a judicial determination that any Document or information designated
10 “CONFIDENTIAL” is subject to protection under Rule 26(c) of the Federal Rules of Civil Procedure or
11 otherwise until such time as the Court may rule on a specific document or issue.
12

13 11. Persons Bound. This Order shall take effect when entered and shall be binding upon Mr.
14 Berson and Chase, and all other persons receiving Documents subject to this Order.

15 12. Miscellaneous.

16 (a) Nothing in this Order shall bar or otherwise restrict any Outside Counsel or In-House
17 Counsel from discussing this action and/or rendering legal advice to his or her client with respect to the
18 *Mansor* Action and, in the course thereof, relying upon his or her examination of designated Documents
19 provided, however, that in rendering such advice and in otherwise communicating with his or her client,
20 such person shall not make any disclosure of designated Documents to any person not entitled to have
21 access to it.
22

23 (b) Nothing in this Order shall preclude any Party or its counsel of record from disclosing or
24 using, in any manner or for any purpose, any information or Documents from the Party’s own files
25 which the Party has designated as “CONFIDENTIAL.”

26 (c) If any authority subpoenas or orders Chase to produce documents or information
27 designated “CONFIDENTIAL” under this Order, Chase shall promptly notify Mr. Berson of the
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1 pendency of the subpoena or order as to enable Mr. Berson with reasonable time to object or to take
2 other appropriate steps to protect the information from disclosure, and shall not make early disclosure of
3 any Documents in a manner that might prejudice Mr. Berson's ability to take such action.
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6 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

7
8 DATED: December 9, 2016

/s Thomas F. Carlucci

Attorneys for JP Morgan Chase, N.A.

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11 DATED: December 9, 2016

/s Brian Berson

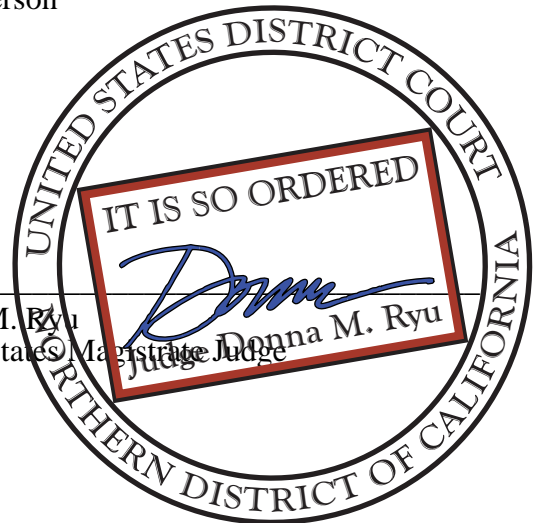
Brian Berson

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14 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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16 DATED: December 19, 2016

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Donna M. Ryu
United States Magistrate Judge



1 ATTACHMENT A

2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 JPMorgan Chase Bank, N.A.,) Case No. 16-mc-80220-EMC (DMC)
6)
7 Applicant,)
8 vs.)
9 Brian Berson,)
10 Respondent.)
11)

ACKNOWLEDGMENT
AND
AGREEMENT TO BE BOUND

12
13 The undersigned hereby acknowledges that he/she has read the Protective Order (“Order”) dated
14 _____ in the above-captioned action and attached hereto,
15 understands the terms thereof, and agrees to be bound by its terms. The undersigned submits to the
16 jurisdiction of the United States District Court for the Northern District of California in matters relating
17 to the Order and understands that the terms of the Order obligate him/her to use documents designated
18 CONFIDENTIAL solely for the purposes of the above-captioned action and the *Mansor* Action, and not
19 to disclose any such documents or information derived directly therefrom to any other person, firm or
20 concern.

21 The undersigned acknowledges that violation of the Order may result in penalties for contempt
22 of court.

23
24 Name: _____

25
26 Job Title: _____
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1 Employer: _____

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3 Business Address: _____

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9 Date: _____

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Signature

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