

1 Randy M. Hess, Esq. (SBN 88635)
 rhess@ahk-law.com
 2 Pamela A. Bower, Esq. (SBN 151701)
 pbower@ahk-law.com
 3 ADLESON, HESS & KELLY, PC
 577 Salmar Avenue, Second Floor
 4 Campbell, California 95008
 Telephone: (408) 341-0234
 5 Facsimile: (408) 341-0250

6 Attorneys for Plaintiff
 dpiX, LLC
 7
 8

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

11 dpiX, LLC,
 12 Plaintiff,
 13 vs.
 14

Case No.: C10-03438 EJD

**STIPULATION FOR ENTRY OF ORDER
 REGARDING PROTECTED MATERIAL**

15 AMERICAN GUARANTEE AND LIABILITY
 INSURANCE COMPANY, ZURICH NORTH
 16 AMERICA, ZURICH AMERICAN
 INSURANCE CORPORATION, ZURICH
 17 AMERICAN INSURANCE GROUP, and
 DOES 1 through 50, inclusive,
 18 Defendants.
 19

20
 21 IT IS HEREBY STIPULATED between and among the parties, through their respective
 22 counsel of record, that on approval of this Court the following Protective Order may be
 23 entered:

- 24 1. Defined Terms: The term "document" shall mean and include:
 25 (a) The "original," and "duplicates," as defined in Federal Rules of Evidence
 26 Rule 1001(1), including copies and drafts thereof;
 27 (b) Writings and recording as defined in Federal Rules of Evidence Rule
 28 1001(1), and includes letters, words, or numbers, or their equivalent, set down by

ADLESON, HESS &
 KELLY, APC
 77 SALMAR AVE., 20th FL.
 CAMPBELL, CA 95008
 (408) 341-0234
 FAX (408) 341-0250
 WWW.AHK-LAW.COM

1 handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical
2 or electronic recording or other form of data compilation, including emails or any other
3 information stored in electronic format; and

4 (c) Photographs as defined in Federal Rules of Evidence Rule 1001(2); and
5 includes still photographs, video tapes, and motion pictures.

6 2. Scope of Order: This Order shall govern the handling of all documents
7 produced and testimony given in this action designated as Protected Material (and labeled
8 "Confidential"). This will include documents containing confidential financial information,
9 proprietary information, information subject to trade secret protection or other privacy
10 protection.

11 3. Labeling of Protected Material: Any party producing or filing a document in this
12 action may obtain treatment for such document or its contents as Protected Material, as
13 defined in Paragraph 5, by typing or stamping on the document, or on its cover, or on the
14 portion of the document for which protection is desired, the word "Confidential." In the case
15 of a document or documents produced in electronic format, a party may obtain treatment for
16 such documents as confidential by typing or stamping the word "Confidential" on the material,
17 or on the label of the disk containing such material. Any printed version of the material will be
18 deemed Confidential, whether or not the documents printed from such disk bear that stamp.
19 However, a party shall designate a document as "Confidential" only if it, in good faith, makes
20 a determination that such information may contain or reveal trade secrets, commercially
21 sensitive or proprietary materials that the designating party has maintained in confidence, is
22 under an obligation to maintain in confidence, or, if newly created, will maintain in confidence.

23 4. Use of Protected Material at Deposition: Whenever any documents or
24 transcripts afforded protection pursuant to this Order are introduced as exhibits in connection
25 with a deposition given in this action, subject to the provisions in paragraph 6 below, counsel
26 introducing such exhibits shall advise the court reporter that the portions of the testimony
27 which refer to such exhibits and the exhibits themselves shall be afforded protection pursuant
28 to this Order. The reporter shall transcribe the testimony so designated, attach the

1 confidential exhibits to which the testimony refers, and mark the face of the bound transcript
2 with the words "Confidential Pursuant to Court Order" or "Confidential." Any portion of any
3 transcript or any exhibit so marked shall be lodged under seal with the Clerk of the Court if it
4 is required to be lodged, pursuant to paragraph 9 herein.

5 5. Persons to Whom Protected Material May be Disclosed: Except by prior Court
6 order or the prior written consent of the party or person designating the document or
7 transcript as "Confidential," no document so designated, and no information contained in or
8 derived from any such document, shall be disclosed to any person other than:

9 (a) Counsel for the respective parties to this litigation;

10 (b) Employees of such counsel, including secretaries, legal assistants, and
11 consultants or experts retained to assist such counsel in this litigation;

12 (c) Employees, officers, agents or authorized representatives designated by
13 a party receiving "Confidential" materials to review such materials on its behalf and any
14 reinsurers; and

15 (d) The respective consultants retained by the parties to this litigation having
16 knowledge of the subject matter of the Protected Material.

17 Before disclosure of any Protected Material is made to any of the persons identified
18 above, that person shall be advised that the Protected Material is being disclosed pursuant
19 and subject to the terms of this Protective Order and agree that the Protected Material may
20 not be disclosed other than pursuant to the terms of the Protective Order. Counsel shall
21 maintain a list of all designated employees of the parties and all consultants to whom
22 disclosure is made and shall make the list available for inspection by counsel for other parties
23 on request. Further, any party accessing electronic material produced in this action with a
24 label marked "Confidential" and/or with password protection and/or encryption agrees that the
25 Protected Material viewed, printed, or used electronically will be treated as protected
26 pursuant to this Protective Order and agrees that the material may not be disclosed other
27 than pursuant to the terms of the Protective Order.

28

1 the contents thereof displayed or revealed except by Order of this Court. Violation of this
2 Order may be regarded as contempt of the Court.”

3 9. Filing Protected Material:

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

15 10. Objections to Confidential Designation: If a party objects to the designation of
16 a document or transcript as “Confidential” and thus entitled to protection under this Order, it
17 shall notify the party seeking protection in writing. Within a reasonable time after receiving
18 such written notice, but not to exceed ten (10) court days, the party seeking protection may
19 apply to the Court by noticed motion for a ruling that the document or transcript shall be
20 treated as Protected Material pursuant to the terms of this Order. Pending the outcome of the
21 application, the document or testimony shall be afforded the protection described in
22 Paragraph 5.

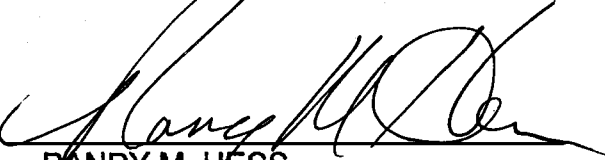
23 11. Disposal of Protected Material at Conclusion of Litigation: Within ninety (90)
24 days of the conclusion of this litigation (that is, upon its final dismissal or judgment), all copies
25 of all documents or transcripts designated “Confidential” or “Confidential Pursuant to Court
26 Order” ^{other than those filed with the Court} shall either be destroyed or returned to the party or person furnishing them. In
27 addition, all copies of all summaries or other materials containing or disclosing information
28 contained in documents or transcripts designated “Confidential” or “Confidential Pursuant to

1 Court Order" shall be either destroyed or returned to the party or person furnishing them.

2 This Order shall continue to be binding after the conclusion of this litigation, except
3 that, unless otherwise ordered by this Court, there shall be no restriction on documents or
4 transcripts that are (a) used as exhibits and/or offered into evidence in the trial of this action,
5 and (b) not covered by any subsequent and inclusive confidentiality order.

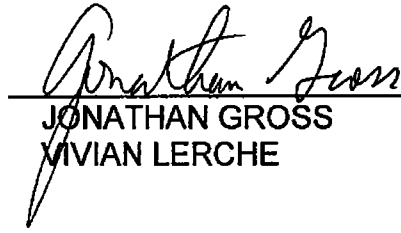
6
7 Dated: Aug 22, 2011

ADLESON, HESS & KELLY, PC

8
9 By: 
10 RANDY M. HESS
11 PAMELA A. BOWER

12 Dated: 8-19-11

BISHOP BARRY DRATH

13
14 By: 
15 JONATHAN GROSS
16 VIVIAN LERCHE

17
18 **IT IS SO ORDERED.**

19
20 Dated: 9/8/2011


21 MAGISTRATE JUDGE PAUL S. GREWAL
22 UNITED STATES DISTRICT COURT
23
24
25
26
27
28