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9 Attorneys for Defendant
 10 MARQUEZ BROTHERS INTERNATIONAL, INC.

11
 12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN JOSE DIVISION

15 PHL VARIABLE INSURANCE
 16 COMPANY,

17 Plaintiff,

18 vs.

19 MARQUEZ BROTHERS
 20 INTERNATIONAL, INC.,

21 Defendant.

22 Case No. CV 12-03750 LHK

23 **STIPULATION AND ~~PROPOSED~~**
 24 **PROTECTIVE ORDER CONCERNING**
 25 **CONFIDENTIAL DOCUMENTS**
 26 **PRODUCED IN DISCOVERY**

27 This agreement is entered into by and between the undersigned attorneys on behalf of
 28 their respective clients, PHL VARIABLE INSURANCE COMPANY ("Plaintiff") and MARQUEZ
 BROTHERS INTERNATIONAL, INC. ("Defendant").

1. Plaintiff and Defendant (hereinafter "Parties") have or will request the
 production of certain documents for inspection and copying, and will take depositions in conjunction
 with discovery in this litigation.

2. These documents and depositions could include sensitive, confidential and/or
 proprietary information and records including employee Social Security numbers, employee contact
 information, and PHL business records, PHL system printouts, product development manuals,
 product and development instructional use manual. (hereinafter "Confidential Material").

1 3. Plaintiff could suffer harm to its business and competitive advantage if its
2 proprietary valuation methods, standards, criteria, policies, product development manuals,
3 instructions, information and other confidential business information were disclosed to its
4 competitors. Prejudice or harm could come to employees and former employees of Defendant if
5 their personal and contact information is disclosed to third parties, and their rights of privacy under
6 the California and federal constitutions could be jeopardized. A protective order is necessary to
7 protect the interests of Plaintiff and Defendant against dissemination of confidential and proprietary
8 information.

9 4. Copies of Confidential Material, including portions of depositions and
10 deposition transcripts and exhibits, will be marked "Confidential" on the document, or on the record
11 at the deposition.

12 5. Confidential documents and/or depositions, and deposition transcripts and
13 exhibits, all copies thereof, and any summaries, charts or notes made therefrom, and any facts or
14 information contained therein or derived therefrom, shall be disclosed only to the Court and/or to:
15 (a) the Parties; (b) counsel for the Parties hereto and their agents, employees, paralegals, or other
16 secretarial and clerical employees or agents; (c) experts or consultant retained by one or more of the
17 parties to this action or their counsel, to assist in preparation of this action for trial; (d) deponents
18 and their counsel; (e) stenographic reporters and videographers who are involved in depositions, the
19 trial or any hearings or proceedings before the Court in this action; and (f) witnesses at the trial of
20 this action.

21 6. No person authorized hereunder to view copies of Confidential Material, or to
22 makes notes therefrom, may disclose any portion of the subject matter or contents of either to any
23 person not authorized hereunder. Experts, consultants and witnesses shown Confidential Material
24 must sign the attached acknowledgement agreeing to be bound by this Order.

25 7. The Confidential Material, copies of any portion of the Confidential Material,
26 and all notes arising from examination of said Confidential Material, as well as discussions of the
27 contents therein, shall be used only in connection with the instant case, and shall not be used in
28 connection with any other lawsuit or for any other purpose whatsoever, unless such Confidential

1 Material is independently discoverable in another proceeding. Within 180 days following the
2 conclusion of this action, including appeals, if any, the Parties and their counsel, upon written
3 request of the other Party, shall destroy or return all Confidential Materials and provide notice to the
4 other Party's attorneys of record.

5 8. This Protective Order is without prejudice to reconsideration by the Court as
6 discovery continues.

7 9. The Parties may request that Confidential Material be filed under seal.
8 However, any such request shall be subject to approval by the Court, for "compelling reasons," upon
9 noticed motion, pursuant to Civil Local Rule 79-5, under the standards set forth in *Kamakana v.*
10 *Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006).

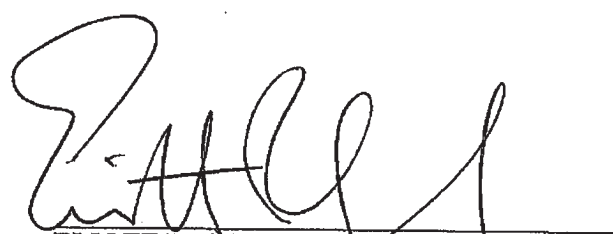
11 10. Any Party may move the Court for relief from, or modification of, this order
12 at any time, and each Party reserves the right to contend in any such motion that documents
13 produced by the other Party and information contained therein are not confidential. This stipulation
14 does not constitute an admission as to the admissibility of any Confidential Material at trial.

15 11. In the event any third parties serve a subpoena or document request in other
16 litigation to a Party holding Confidential Material in this case, the Party subject to the subpoena or
17 document request shall promptly notify the other Party that produced the Confidential Material to
18 allow that Party to file objections or otherwise attempt to prevent disclosure of the Confidential
19 Material to the third party, and will not produce the Confidential Material to the third party until
20 legally required to do so.

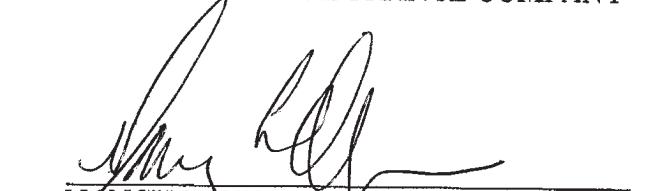
21 12. The Parties agree to act in good faith in designating Confidential Material and
22 agree not to use this Stipulation for any purpose other than as stated herein. The Parties agree to
23 make a good faith determination that any information designated as "Confidential" truly warrants
24 protection under Rule 26(c) of the Federal Rules of Civil Procedures. Designations of material as
25 "Confidential" must be narrowly tailored to include only materials for which there is good cause.
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Dated: November 20th, 2012


ELIOTT R. GOOD
CHORPENING, GOOD & PANDORA CO.,
LPA
Attorneys for Plaintiff
PHL VARIABLE INSURANCE COMPANY

Dated: November 20, 2012


NANCY L. OBER
LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendant
MARQUEZ BROTHERS INTERNATIONAL,
INC.

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ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I, _____ have read the
(Print Name and Address)

Protective Order in its entirety and agree to comply with all its terms.

Date: _____

Name: _____

Signature: _____

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~~PROPOSED~~ ORDER

For good cause appearing, IT IS SO ORDERED.

Dated: November 26, 2012

Lucy H. Koh
UNITED STATES DISTRICT JUDGE

Firmwide: 115983957.1 051198.1006

1 **PROOF OF SERVICE BY MAIL**

2 I am employed in San Francisco County, California. I am over the age of eighteen
3 years and not a party to the within-entitled action. My business address is 650 California Street,
4 20th Floor, San Francisco, California 94108.2693. I am readily familiar with this firm's practice for
5 collection and processing of correspondence for mailing with the United States Postal Service. On
6 November 20, 2012, I placed with this firm at the above address for deposit with the United States
7 Postal Service a true and correct copy of the within document(s):

8 STIPULATION AND [PROPOSED] PROTECTIVE ORDER
9 CONCERNING CONFIDENTIAL DOCUMENTS PRODUCED IN
10 DISCOVERY

11 in a sealed envelope, postage fully paid, addressed as follows:

12 Elliott R Good
13 Chorpenning Good & Pandora, LPA
14 605 South Front Street
15 Suite 210
16 Columbus, OH 43215

17 *Attorneys for Plaintiff*
18 PHL VARIABLE INSURANCE
19 COMPANY

20 Following ordinary business practices, the envelope was sealed and placed for
21 collection and mailing on this date, and would, in the ordinary course of business, be deposited with
22 the United States Postal Service on this date.

23 I declare that I am employed in the office of a member of the bar of this court at
24 whose direction the service was made.

25 Executed on November 20, 2012, at San Francisco, California.

26 

27

Barbra K. Linsenbigler

28 Firmwide:115242180.1 051198.1006