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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

HOOT WINC, LLC, a Kansas limited liability company,

Plaintiff,

v.

RSM McGLADREY FINANCIAL PROCESS OUTSOURCING, LLC, et al.,

Defendants.

Case No. 08cv1559 BTM(WMc)

ORDER RE: SUPPLEMENTAL BRIEFING IN SUPPORT OF MOTION TO FILE EXHIBIT L UNDER SEAL

Defendant has filed a motion to file under seal Exhibit L (a “Services Agreement”) in support of its motion for partial summary judgment. Defendant explains that it moves to file the exhibit under seal because Plaintiff designated the document as “confidential,” and Defendant is obligated to seek permission to file the document under seal under the terms of the protective order entered in this case. Defendant does not actually contend that the exhibit should be sealed.

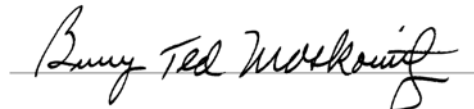
The Supreme Court has held that there is a common law right of access to records in civil proceedings: “It is clear that the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.” Nixon v. Warner Communications, Inc., 435 U.S. 589, 597 (1978). Courts are required to start “with a strong presumption in favor of access.” Hagestad v. Tragesser, 49 F.3d 1430,1434 (9th Cir. 1995).

1 However, the presumption can be overcome by sufficiently important countervailing
2 interests. San Jose Mercury News, Inc. v. United States Dist. Court, 187 F.3d 1096, 1102
3 (9th Cir. 1999). “After taking all relevant factors into consideration, the district court must
4 base its decision on a compelling reason and articulate the factual basis for its ruling, without
5 relying on hypothesis or conjecture.” Hagestad, 49 F.3d at 1434.

6 Plaintiff’s opinion that Exhibit L is “confidential” is not enough in and of itself to justify
7 filing the exhibit under seal. If Plaintiff wants Exhibit L to be filed under seal, Plaintiff must
8 file a supplemental brief explaining why the exhibit should be sealed. The supplemental brief
9 must be filed on or before **September 7, 2010**.

10 **IT IS SO ORDERED.**

11 DATED: August 18, 2010



Honorable Barry Ted Moskowitz
United States District Judge

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