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

JOHN G. PETROU, an individual,

Plaintiff,

v.

NAVIENT CORPORATION, a Delaware
corporation; SALLIE MAE
CORPORATION, a Delaware
corporation;
SELAINA A. PETROU an individual;
and
Does 1 through 50, inclusive,

Defendants.

Case No. 3:17-cv-02033-BTM-JLB

**ORDER: (1) GRANTING JOINT
MOTION; AND (2) ENTERING
AMENDED STIPULATION FOR
PROTECTIVE ORDER**

[ECF No. 35]

The Court hereby GRANTS the joint motion for entry of a protective order (ECF No. 35) by Defendant Navient Solutions, LLC f/k/a Navient Solutions, Inc. erroneously named as "Navient Corporation" and "Sallie Mae Corporation" (NSL), Plaintiff John G. Petrou (**Plaintiff**), and Defendant Selaina A. Petrou (**Co-Defendant**). The parties jointly move for entry of this protective order:

The Parties stipulate that a potentially significant number of documents to be produced in this case containing nonpublic personal information of Plaintiff and Co-Defendant, and confidential and proprietary information of NSL, such that document-by-document review of these materials will be impracticable if the case is to proceed in an orderly, timely, and efficient manner.

1 The Parties further stipulate that their interests in protecting non-public personal
2 information of Plaintiff and Co-Defendant, as well as confidential and commercially
3 sensitive information of NSL pertaining to Plaintiff's and Co-Defendant's account(s)
4 from unnecessary disclosure, and the Parties' desire and the benefit to the Court of an
5 orderly and expeditious resolution of this matter, outweigh societal interest in disclosure
6 of these materials to non-parties. In light of the foregoing, the Parties believe it is
7 appropriate to expedite the flow of discovery material, promote the prompt resolution
8 of disputes over confidentiality, and facilitate the preservation of material worthy of
9 protection.

10 Accordingly, it is, **ORDERED and ADJUDGED as follows:**

11 1. "CONFIDENTIAL" Documents, Materials, and Information. This Order
12 shall govern all documents produced by any Party or non-party subject to this Order
13 and all written answers, deposition answers, other responses to discovery, and all
14 communications of any kind made by any Party or non-party subject to this Order, their
15 respective attorneys, consultants, agents, employees, and representatives, and other
16 third parties. "CONFIDENTIAL" materials shall be the documents or information
17 designated by any Party or non-party under this Order and any notes, work papers, or
18 other documents respectively containing "CONFIDENTIAL" materials derived from
19 such items. Any Party or non-party subject to this Order may identify any documents
20 or information, including but not limited to discovery materials produced by other
21 parties and initial disclosures, documents and things, answers to interrogatories,
22 responses to requests for production, responses to requests for admission, deposition
23 exhibits, and all or portions of deposition or hearing transcripts of others, as
24 "CONFIDENTIAL" and designate the documents or information as such by affixing
25 thereto a legend of "CONFIDENTIAL" or by designating through another method set
26 forth in this Order.

27 Any Party or non-party subject to this Order may designate documents or
28 information as "CONFIDENTIAL" to the extent the designating party, through counsel,

1 believes "good cause" under Federal Rule of Civil Procedure 26(c) exists to categorize
2 the material as confidential because the material contains or includes: (1) confidential
3 business or technical information; (2) trade secrets; (3) proprietary business methods or
4 practices; (4) any other competitively sensitive confidential information; (5) personal
5 information, including personal financial information about customers or applicants,
6 any party to this lawsuit, or an employee of any party to this lawsuit; (6) information
7 regarding any individual's banking or lending relationships, including, without
8 limitation, information regarding any individual's mortgage or credit history and/or
9 consumer information not otherwise available to the public; and (7) any other categories
10 that are later agreed to in writing by the parties or ordered by the Court.

11 2. Designation of "CONFIDENTIAL" Material. Any Party or non-party
12 subject to this Order shall designate materials as "CONFIDENTIAL" by stamping them
13 with the word "CONFIDENTIAL" in a manner which will not interfere with their
14 legibility. This designation shall only be used in a reasonable fashion and upon a good
15 faith determination by counsel that a particular document contains non-public
16 information and falls within one of the categories enumerated in Paragraph 1. This
17 designation shall ordinarily be made before or at the same time as the production or
18 disclosure of the material. Because materials described in Paragraph 1 shall be covered
19 by this Order, there shall be no waiver of confidentiality if such materials are
20 inadvertently produced without being stamped "CONFIDENTIAL." Materials already
21 produced in discovery in this litigation may be designated as "CONFIDENTIAL" upon
22 written notice (without stamping), within fourteen (14) days of the entry of this Order,
23 by any Party or non-party subject to this Order to all counsel of record to whom such
24 documents have been produced by notifying the other party of the identity of the
25 documents or information to be so designated. Any Party or non-party subject to this
26 Order can remove at any time its/his/her designation of "CONFIDENTIAL" from any
27 of the documents or information it previously so designated.

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1 3. Treatment of "CONFIDENTIAL" Information. Unless otherwise ordered
2 by the Court, "CONFIDENTIAL" material, and any quotes, summaries, charts, or notes
3 made therefrom, and any facts or information contained therein or derived therefrom,
4 shall be held in confidence and used by the parties to whom the documents and
5 information are produced solely for the purpose of this case. The parties agree to take
6 reasonable steps to maintain the confidentiality of the documents, information, and
7 testimony relating thereto. During the pendency of this litigation, "CONFIDENTIAL"
8 material, including all copies thereof, shall be retained solely in the custody of the
9 parties' attorneys and shall not be placed in the possession of or disclosed to any other
10 person, except as set forth in this Order, as otherwise agreed upon by the parties, or
11 upon leave of Court. Each person to whom "CONFIDENTIAL" material is disclosed
12 pursuant to this Order is hereby prohibited from exploiting in any way such documents
13 or information for his, her, or its own benefit, or from using such information for any
14 purpose or in any manner not connected with the prosecution or defense of this case.

15 4. "Disclosure." As used herein, "disclosure" or to "disclose" shall mean to
16 divulge, reveal, describe, summarize, paraphrase, quote, transmit, or otherwise
17 communicate "CONFIDENTIAL" material.

18 5. Permissible Disclosure of "CONFIDENTIAL" Material. Except by order
19 of this Court, or otherwise as required by law, material designated as
20 "CONFIDENTIAL" (and any notes or documents that reflect or refer to such documents
21 and information) shall not be disclosed to any person other than:

- 22 (a) A party hereto;
- 23 (b) Counsel employed by a party, or an employee of such counsel, to whom it
24 is necessary that the materials be shown or the information known for
25 purposes of this case;
- 26 (c) Any employee or agent of a party to whom the "CONFIDENTIAL"
27 materials are shown for the purpose of working directly on or testifying in

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1 connection with this litigation at the request of or at the direction of counsel
2 for such party;

3 (d) A person retained to assist in this action, such as an investigator, independent
4 accountant, or other technical expert or consultant, who has signed an
5 acknowledgement in the form of Exhibit A, which signed acknowledgment
6 shall be retained by the party who has retained such person;

7 (e) This Court (or its employees or agents) pursuant to a court filing in
8 connection with this action;

9 (f) Any person(s) designated by the Court in the interest of justice, upon such
10 terms as the Court may deem proper;

11 (g) Members of the jury at a public trial of this matter, subject to the
12 requirements of Paragraph 11 below; or

13 (h) A person who is deposed or who testifies at the hearing in this matter who
14 has signed an acknowledgement in the form of Exhibit A hereto, which
15 signed acknowledgment shall be retained by the party who has compelled
16 such person to testify at a deposition or trial. If the witness refuses to sign
17 such form, the party compelling such testimony shall immediately notify
18 opposing counsel and permit them seven (7) days to seek redress with the
19 Court.

20 6. Review of Own "CONFIDENTIAL" Materials. The restrictions of this
21 Order shall not apply to the designating party, its/his/her respective employees,
22 attorneys, experts, or other authorized agents, when reviewing its/his/her own
23 "CONFIDENTIAL" materials.

24 7. Deposition Transcripts. Deposition testimony and deposition exhibits
25 containing "CONFIDENTIAL" material shall be covered by this Order. During a
26 deposition taken in this matter, any Party or non-party subject to this Order, on the
27 record, may designate as "CONFIDENTIAL" portions of the deposition testimony or
28 deposition exhibits. Alternatively, the designating party may, by written notice to

1 opposing counsel and the court reporter not later than fourteen (14) business days after
2 receipt of the final deposition transcript, designate as "CONFIDENTIAL" any portions
3 of the deposition testimony or deposition exhibits. Until expiration of the above
4 fourteen (14) day period, all deposition transcripts of NSL will be treated as
5 "CONFIDENTIAL" material unless otherwise agreed to in writing by the parties.

6 8. Objections to "CONFIDENTIAL" Designations. To the extent that any
7 Party contests a designation under this Order, such Party shall object to such designation
8 in writing not later than fourteen (14) business days after receipt of materials designated
9 as "CONFIDENTIAL." The Parties shall first try to resolve the disagreement in good
10 faith on an informal basis, such as the production of redacted copies. If the Parties are
11 unable to reach an agreement regarding the designation, then the Party objecting to such
12 designation shall file an appropriate motion with the Court—subject to and consistent
13 with the Honorable Jill L. Burkhardt's Civil Chamber Rules— for a ruling that the
14 documents or other information shall not be accorded such status and treatment. In the
15 event that such a challenge is made, the designating party asserting the confidentiality
16 designation shall have the burden of establishing good cause exists under Federal Rule
17 of Civil Procedure 26(c) to maintain the designation. Until this Court enters an order
18 changing the designation of such documents or information, such document or
19 information shall continue to be protected as provided by this Order. Should the Court
20 rule in favor of the Party objecting to the confidentiality designation, the Party or non-
21 party asserting the designation shall produce a copy of the document(s) without the
22 "CONFIDENTIAL" designation.

23 9. Disclosing "CONFIDENTIAL" Material. If any Party or non-party subject
24 to this Order wishes to disclose any "CONFIDENTIAL" material beyond the terms of
25 Paragraphs 5-6 of this Order, it/he/she shall provide all other parties with reasonable
26 notice in writing of the request to disclose the materials, unless otherwise required by
27 law. If the Parties cannot resolve their disagreement with respect to the disclosure of
28 any designated information, then any Party may petition the Court—subject to and

1 consistent with the Honorable Jill L. Burkhardt's Civil Chamber Rules—for a
2 determination of these issues. In the event that such a challenge is made, the designating
3 party asserting the confidentiality designation shall have the burden of establishing that
4 the designation is proper. Such "CONFIDENTIAL" material shall remain
5 "CONFIDENTIAL" as stipulated by this Order until the Court rules on the Party's
6 specific petition.

7 10. Filing Documents under Seal. Each Party and non-party subject to this
8 Order agrees that when filing with Court any papers (including, without limitation,
9 affidavits, memoranda, interrogatory answers, or depositions) that disclose directly or
10 indirectly any "CONFIDENTIAL" material, such papers shall be filed under seal in
11 accordance with the Court's Local Rules and the Honorable Jill L. Burkhardt's Civil
12 Chamber Rules, Paragraph V.5:

13 "No document shall be filed under seal unless counsel secures a court order
14 allowing the filing of a document under seal. An application to file a
15 document under seal shall be served on opposing counsel, and on the person
16 or entity that has custody and control of the document, if different from
17 opposing counsel. If the application to file under seal a document designated
18 as confidential is being made by the non-designating party, then, upon
19 request, the designating party must promptly provide the applicant with a
legal basis for the confidential designation to include within the application.
If opposing counsel, or the person or entity that has custody and control of
the document, wishes to oppose the application, he/she must contact the
chambers of the judge who will rule on the application, to notify the judge's
staff that an opposition to the application will be filed."

20 If a party filing a non-dispositive motion seeks to file documents under seal, the
21 filing party must show that good cause exists as defined by Federal Rule of Civil
22 Procedure 26(c). If a party filing a dispositive motion seeks to file documents under
23 seal, the filing party must show "compelling reasons supported by specific factual
24 findings outweigh the general history of access and the public policies favoring
25 disclosure." *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 677-679 (9th Cir. 2010)
26 (internal quotations and citations omitted).

27 The Parties further recognize the possible need to use documents marked
28 "CONFIDENTIAL" during the trial of this matter. However, the Parties agree to take

1 reasonable steps to protect the confidentiality of any trial exhibits so designated to
2 include asking the Court to ensure that any such documents referred to or offered into
3 evidence at trial are filed with the Court under seal.

4 11. Document Retention. After the conclusion of this matter (including the
5 expiration of all appeals), all originals and reproductions of the "CONFIDENTIAL"
6 materials shall be returned to the producing party within thirty (30) days of such
7 conclusion or be destroyed. Upon request, the Party destroying said documents shall
8 certify in writing to the producing party within ten (10) days of such request that
9 destruction of the "CONFIDENTIAL" materials has taken place. Insofar as the
10 provisions of this Order restrict the use of the documents produced hereunder, the Order
11 shall continue to be binding throughout and after the conclusion of this case, including
12 all appeals, except as set forth in Paragraph 13.

13 12. Admissibility. Nothing in this Order shall be construed to limit any Party
14 from producing or introducing any document into evidence at public hearing. Subject
15 to the Rules of Evidence, "CONFIDENTIAL" materials and other confidential
16 information may be offered in evidence at trial or any court hearing. Any Party may
17 move the court for an Order that the evidence be received in camera or under other
18 conditions to prevent unnecessary disclosure of any "CONFIDENTIAL" material. The
19 Court will then determine whether the proffered evidence should continue to be treated
20 as "CONFIDENTIAL" and, if so, what protection, if any, may be afforded to such
21 information at the trial or hearing.

22 13. Scope of Discovery. Nothing in this Order shall preclude any Party from
23 opposing production of any documents or information, or from seeking further or
24 different relief should future pretrial activities indicate such a need.

25 14. Client Consultation. Nothing in this Order shall bar or otherwise restrict
26 any attorney herein from rendering advice to its/his/her client with respect to this case
27 or from doing anything necessary to prosecute or defend this case and further the
28 interests of its/his/her client, provided, however, that the attorney shall not disclose any

1 material designated for protection hereunder where such disclosure would be contrary
2 to the terms of this Order.

3 15. Discretion of the Court. Nothing in this Order shall apply to, bind, or limit
4 the Court or its employees in the performance of their duties. Absent an ex parte motion
5 made within 10 calendar days of the termination of the case, the Parties understand that
6 the Court will destroy any documents designated as "CONFIDENTIAL" in its
7 possession.

8 16. Notice of Breach. It shall be the obligation of counsel, upon hearing of
9 any breach or threatened breach of this Order by any person, promptly to notify counsel
10 for the opposing and producing parties of such breach or threatened breach. The parties
11 shall make every reasonable effort to mark all discovery containing
12 "CONFIDENTIAL" materials, but the mistaken or inadvertent failure to mark the
13 discovery material, where notice has otherwise been given that it contains
14 "CONFIDENTIAL" materials, shall not exempt it from the provisions of this Order.

15 17. Litigation Use Only. All "CONFIDENTIAL" materials produced in this
16 litigation, whether by a party or nonparty, and whether pursuant to the civil rules of
17 procedure, subpoena, agreement or otherwise, and all information contained therein or
18 derived therefrom, shall be used solely for the preparation and trial of this action
19 (including any appeals and retrials), and may not be used for any other purpose,
20 including business, governmental or commercial, or any other administrative or judicial
21 proceedings or actions.

22 18. Subpoena by Other Court or Agencies. If another court or an
23 administrative agency subpoenas or orders production of "CONFIDENTIAL" materials
24 that a Party obtained under the terms of this Order, the Party receiving the subpoena
25 shall promptly notify the designating party of the pendency of such subpoena or order.

26 19. Inadvertent Disclosure Protection. Review of the "CONFIDENTIAL"
27 materials labeled "CONFIDENTIAL" by counsel, experts, or consultants in the
28 litigation shall not waive the "CONFIDENTIAL" designation or any objections to

1 production. "CONFIDENTIAL" materials inadvertently produced by any Party or non-
2 party subject to this Order through discovery in this action without having been
3 designated as "CONFIDENTIAL" shall be subject to the provisions of this Order to the
4 same extent as if the inadvertent disclosure had not occurred so long as there is
5 reasonable notice to the other party of the inadvertent disclosure. If any Party or non-
6 party subject to this Order inadvertently discloses information that is privileged or
7 otherwise immune from discovery, the producing party shall promptly, upon discovery
8 of such disclosure, so advise the receiving party in writing and request that the item or
9 items of information be returned. No party to this action shall thereafter assert that such
10 disclosure waived any privilege or immunity. It is further agreed that the receiving
11 party will return such inadvertently produced item or items of information and all copies
12 thereof to the producing party within fourteen (14) business days of receiving a written
13 request for the return of such item or items of information from the producing party.

14 20. Non-Parties. Non-parties who are required to produce
15 "CONFIDENTIAL" material in response to a subpoena, and who in good faith believe
16 that such material contains confidential information, may rely on this Order and apply
17 it to their production.

18 21. Responsibility of Attorneys. The attorneys of record are responsible for
19 employing reasonable measures to control, consistent with this Order, the duplication
20 of, access to, and distribution of copies of materials labeled "CONFIDENTIAL."
21 Parties shall not duplicate any such materials except for working copies and for filing
22 in court under seal. The attorneys of record further are responsible for employing
23 reasonable measures to control, consistent with this Order, the dissemination or
24 revelation of confidential information.

25 22. Plaintiff's Personal Information. Plaintiff authorizes and consents for NSL
26 to produce and disclose information and documentation containing Plaintiff's non-
27 public personal information to any Party and non-party subject to this Order provided
28 that such information and documentation have been designated "CONFIDENTIAL" in

1 accordance with this Order. Plaintiff agrees, accepts, and acknowledges that NSL's
2 production and disclosure of Plaintiff's non-public personal information shall not
3 constitute a violation of any disclosure law(s) that may apply or violate Plaintiff's
4 privacy rights.

5 23. Co-Defendant's Personal Information. Co-Defendant authorizes and
6 consents for NSL to produce and disclose information and documentation containing
7 Co-Defendant's non-public personal information to any Party and non-party subject to
8 this Order provided that such information and documentation have been designated
9 "CONFIDENTIAL" in accordance with this Order. Co-Defendant agrees, accepts, and
10 acknowledges that NSL's production and disclosure of Co-Defendant's non-public
11 personal information shall not constitute a violation of any disclosure law(s) that may
12 apply or violate Plaintiff's privacy rights.

13 24. Modification of the Order by the Court. Pursuant to Judge Burkhardt's
14 Civil Chamber Rules, Paragraph V.3, the Court may modify the terms and conditions of
15 the Order for good cause, or in the interest of justice, or on its own order at any time in
16 these proceedings.

17 **IT IS SO STIPULATED.**

18 Dated: March 12, 2018

AKERMAN LLP

19
20 By: /s/ Robert R. Yap
Justin D. Balsler
Robert R. Yap
21 Attorneys for Defendant
NAVIENT SOLUTIONS, LLC f/k/a
22 NAVIENT SOLUTIONS, INC.
erroneously named as "Navient
23 Corporation" and "Sallie Mae
24 Corporation

25 Dated: March 12, 2018

HAMILTON & ASSOCIATES, APC

26
27 By: /s/ Ben-Thomas Hamilton
Ben-Thomas Hamilton
28 Attorneys for Plaintiff
JOHN G. PETROU

1 Dated: March 12, 2018

SMALL & SCHENA LLP

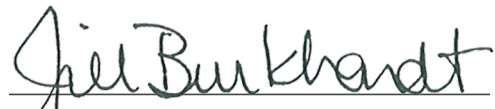
2
3 By: /s/ William F. Small
4 William F. Small
5 Attorneys for Defendant
6 SELAINA A. PETROU

7
8 **ORDER**

9 The Court APPROVES the joint motion and stipulation for protective order
10 between Defendant Navient Solutions, LLC f/k/a Navient Solutions, Inc. erroneously
11 named as "Navient Corporation" and "Sallie Mae Corporation", Plaintiff John G.
12 Petrou, and Defendant Selaina A. Petrou.

13 **IT IS SO ORDERED.**

14 Dated: March 12, 2018

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Hon. Jill L. Burkhardt
United States Magistrate Judge

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3
4 I, _____ [print or type full name], of _____
5 [print or type full address], declare under penalty of perjury that I have read in its entirety and
6 understand the Amended Joint Motion and Stipulation for Protective Order issued by the
7 United States District Court for the Southern District of California on [date] in the case of John
8 G. Petrou v. Navient Corporation et al., Case No. 3:17-cv-02033-BTM-JLB. I agree to comply
9 with and to be bound by all the terms of the Amended Joint Motion and Stipulation for
10 Protective Order, and I understand and acknowledge that failure to so comply could expose me
11 to sanctions and punishment in the nature of contempt. I solemnly promise that I will not
12 disclose in any manner any information or item that is subject to this Amended Joint Motion
13 and Stipulation for Protective Order to any person or entity except in strict compliance with the
14 provisions of this Order. I further agree to submit to the jurisdiction of the United States
15 District Court for the Southern District of California for the purpose of enforcing the terms of
16 this Amended Joint Motion and Stipulation for Protective Order, even if such enforcement
17 proceedings occur after termination of this action. I hereby appoint _____
18 [print or type full name] of _____ [print or type full address and
19 telephone number] as my California agent for service of process in connection with this action
20 or any proceedings related to enforcement of this Amended Joint Motion and Stipulation for
21 Protective Order.

22 Date: _____

23
24 City and State where sworn and signed: _____

25
26 Printed Name: _____

27
28 Signature: _____