

UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO

Civil Action No. 10-CV-00842 WJM-KLM

DENIS RYSKAMP, Derivatively on Behalf of  
BOULDER GROWTH & INCOME FUND, INC.,

Plaintiff,

v.

JOEL W. LOONEY,  
DEAN L. JACOBSON,  
RICHARD I. BARR,  
JOHN S. HOREJSI, and  
SUSAN L. CICIORA,

Defendants,

and

BOULDER GROWTH AND INCOME FUND, INC.,

Nominal Defendant.

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**SECOND ~~[PROPOSED]~~ PROTECTIVE ORDER PURSUANT TO FEDERAL RULE OF  
EVIDENCE 502(d)**

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Upon consideration of the parties' Stipulated Motion for Entry of Second [Proposed] Protective Order Pursuant to Federal Rule of Evidence 502(d), the Court hereby orders that the attorney-client privilege or any other privilege or protection is not waived by disclosure to Plaintiff by the Review Committee of the Advisor Documents.<sup>1</sup> The disclosure is also not a waiver in any other Federal or State proceeding or as to any third party.

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<sup>1</sup> Defined terms in the parties' Stipulated Motion for Entry of Second [Proposed] Protective Order Pursuant to Federal Rule of Evidence 502(d) apply to this Order.

This Order does not preclude Plaintiff from using the privileged communications in this matter, subject to the terms of the protective order previously entered by the Court. [Dkt. No. 89]. This Order shall not otherwise preclude Plaintiff from challenging Defendants' assertion of the attorney-client privilege, attorney-work product, or other privilege in connection with documents and information reviewed by the Review Committee in connection with its investigation, his right to reference or rely on the Advisor Documents in any pleading or motion before the Court (including but not limited to a motion to compel production of documents and Plaintiff's Second Amended Complaint (or any later amendments to the Complaint)) or otherwise in this matter. However, Plaintiff will withdraw the currently pending Motion to Compel with respect to the Advisor Documents subject to this Order.

THEREFORE, it is **ORDERED** that:

1. Voluntary disclosure of the attorney-client communications of the Advisor by the Review Committee to Plaintiff, subject to the terms of the existing protective order, does not waive any privileges or protections attaching to the communications.

Dated: July 12, 2011

  
United States District Court Judge/Magistrate Judge

**KRISTEN L. MIX  
U.S. MAGISTRATE JUDGE  
DISTRICT OF COLORADO**