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First Light HOA; Louis Austin & Roger Eisel

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 * * *
11 PRESTON WOODBERRY, an individual;) CASE NO.: 2:14-cv-00325-GMN-GWF
COURTNEY SUMPTER, an individual;)
12)
Plaintiff,)
13)
vs.) **STIPULATION AND PROTECTIVE**
14) **ORDER**
15 FIRST LIGHT HOMEOWNERS)
ASSOCIATION, a Nevada Domestic Non-)
Profit Corporation; NICKLIN PROPERTY)
16 MANAGEMENT AND INVESTMENT, INC.,)
a Nevada Domestic Corporation; BOULDER)
17 RANCH MASTER ASSOCIATION, a)
Nevada Domestic Non-Profit Corporation;)
18 PERFORMANCE CAM, LLC, a Nevada)
Limited Liability Company; LOUIS AUSTIN,)
19 a individual; ROGER EISEL, an individual;)
DOES I through X, inclusive; and ROE)
20 CORPORATIONS I through X, inclusive;)
21)
Defendants.)

22 **STIPULATION AND PROTECTIVE ORDER**

23
24 The Parties, by and through their respective counsel, stipulate and move the Court for
25 a Protective Order pursuant to Rule 26(c) of the Federal Rules of Civil Procedure concerning
26 the treatment of Confidential Information (as hereinafter defined), and, as grounds therefor,
27 state as follows:
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1 1. In this action, at least one of the Parties has sought and/or is seeking
2 Confidential Information (as defined in paragraph 2 below). The Parties also anticipate
3 seeking additional Confidential Information during discovery and that there will be questioning
4 concerning Confidential Information in the course of depositions. The Parties assert the
5 disclosure of such information outside the scope of this litigation could result in significant
6 injury to one or more of the Parties' business or privacy interests. The Parties have entered
7 into this Stipulation and request the Court enter the within Protective Order for the purpose of
8 preventing the disclosure and use of Confidential Information except as set forth herein.

9 2. "Confidential Information" means any document, file, portions of files,
10 transcribed testimony, or response to a discovery request, including any extract, abstract,
11 chart, summary, note, or copy made therefrom - not made available to the public - and
12 designed by one of the Parties in the manner provided in paragraph 3 below as containing
13 confidential information which if disclosed could significantly impact the parties' business or
14 privacy interests.

15 3. Where Confidential Information is produced, provided or otherwise disclosed by
16 a Party in response to any discovery request, it will be designated in the following manner:

17 a. By imprinting the word "Confidential" on every page of any
18 document produced; or,

19 b. By imprinting the word "Confidential" next to or above any response to
20 a discovery request; or

21 c. With respect to transcribed testimony, by giving written notice to
22 opposing counsel designating such portions as "Confidential" no later than ten
23 (10) calendar days after receipt of the transcribed testimony;

24 d. In writing, by designating specific bates pages of documents produced
25 "confidential," and describing the same in a log attached hereto as **Exhibit A**.

26 4. All Confidential Information provided by a Party in response to a discovery
27 request or transcribed testimony shall be subject to the following restrictions:

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1 a. It shall be used only for the purpose of this litigation and not for any
2 business or other purpose whatsoever;

3 b. It shall not be communicated or disclosed by any Party's counsel or a
4 Party in any manner, either directly or indirectly, to anyone except for purposes
5 of this case and unless an affidavit in the form of **Exhibit B** has been signed.

6 5. Individuals authorized to review Confidential Information pursuant to this
7 Protective Order shall hold Confidential Information in confidence and shall not divulge the
8 Confidential Information, either verbally or in writing, to any other person, entity or government
9 agency unless authorized to do so by court order.

10 6. The Party's counsel or counsel's agent, employee, and/or staff who discloses
11 Confidential Information shall be responsible for assuming compliance with the terms of this
12 Protective Order with respect to persons to whom such Confidential Information is disclosed
13 and shall obtain and retain the original affidavits signed by qualified recipients of Confidential
14 Information, and shall maintain a list of all persons to whom any Confidential Information is
15 disclosed.

16 7. During the pendency of this action, opposing counsel may upon court order or
17 agreement of the parties inspect the list maintained by counsel pursuant to paragraph 6 above
18 upon a showing of substantial need in order to establish the source of an unauthorized
19 disclosure of Confidential Information and that opposing counsel are unable otherwise to
20 identify the source of the disclosure. If counsel disagrees with opposing counsel's showing of
21 substantial need, then counsel may seek a court order requiring inspection under the terms
22 and conditions deemed appropriate by the Court.

23 8. No copies of Confidential Information shall be made except by or on behalf of
24 counsel in this litigation and such copies shall be made and used solely for purposes of this
25 litigation.

26 9. During the pendency of this litigation, counsel shall retain custody of Confidential
27 Information, and copies made therefrom pursuant to paragraph 8 above.

28 10. If opposing counsel objects to the designation of certain information as

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1 Confidential Information, he or she shall promptly inform the other parties' counsel in writing
2 of the specific grounds of objection to the designation. All counsel shall then, in good faith
3 and on an informal basis, attempt to resolve such dispute. If after such good faith attempt, all
4 counsel are unable to resolve their dispute, opposing counsel may move for a disclosure order
5 consistent with this order. Any motion for disclosure shall be filed within 14 days of receipt by
6 counsel of notice of opposing counsel's objection, and the information shall continue to have
7 Confidential Information status from the time it is produced until the ruling by the Court on the
8 motion.

9 11. Use of Confidential Information in Court Proceedings: In the event Confidential
10 Information is used in any court filing or proceeding in this action, including but not limited to
11 its use at trial, it shall not lose its confidential status as between the parties through such use.
12 Confidential Information and pleadings or briefs quoting or discussing Confidential Information
13 will not be accepted for filing "under seal" or otherwise kept out of the public record in this
14 action, however, except by court order issued upon motion of the party seeking to file the
15 documents under seal.

16 12. The termination of this action shall not relieve counsel or other persons obligated
17 hereunder from their responsibility to maintain the confidentiality of Confidential Information
18 pursuant to this Protective Order, and the Court shall retain continuing jurisdiction to enforce
19 the terms of this Protective Order.

20 13. By agreeing to the entry of this Protective Order, the Parties adopt no position
21 as to the authenticity or admissibility of documents produced subject to it.

22 14. Upon termination of this litigation, including any appeals, upon demand by any
23 producing party of Confidential Information, each Party's counsel shall immediately return to
24 the producing party all Confidential Information provided subject to this Protective Order, and
25 all extracts, abstracts, charts, summaries, notes or copies made therefrom. Similarly, upon
26 demand by any producing party of Confidential Information, counsel shall also file under seal
27 with this Court the list of individuals who have received Confidential Information which counsel
28 shall have maintained pursuant to paragraph 6 herein, and counsel shall provide the Court with

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1 verification that any of counsel's work product referencing Confidential Information has been
2 destroyed. Any motion requesting leave to file documents under seal shall comply with the
3 requirements for sealing records as articulated in the Nevada Rules for Sealing and Redacting
4 Court Records.

5 15. Nothing in this Protective Order shall preclude any Party from filing a motion
6 seeking further or different protection from the Court under Rule 26(c) of the Federal Rules of
7 Civil Procedure, or from filing a motion with respect to the manner in which Confidential
8 Information shall be treated at trial.

9 16. If any party to this Protective Order objects to the designation of any information
10 as Confidential or there is a dispute concerning the disclosure of Confidential information to
11 the person(s) designated by the Parties, the party having the objection or dispute shall first
12 state the objection or issue by letter or email to the party that made such designations. The
13 parties shall confer in good faith by telephone or in person to resolve any dispute respecting
14 the terms or operation of this Protective Order. If the Parties are unable to resolve such a
15 dispute within three (3) days of such conference, the dispute shall be submitted to the
16 Discovery Commissioner or Trial Judge. In any proceeding, the designating party shall have
17 the burden establishing that the disputed document or information is Confidential, as defined
18 in Paragraph 2 above. No disclosure of any document or information in dispute shall be made
19 pending resolution of the dispute. In the event that the Discovery Commissioner or the Trial
20 Judge is required to review a claim of confidentiality, the particular document or information
21 challenged shall be submitted to the Discovery Commissioner or the Trial Judge of in camera
22 inspection.

23 17. The failure of any party to challenge the designation by another producing party
24 of documents, materials, or information as Confidential shall not be a waiver of that party's
25 right to object to the designation of such material in this litigation.

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1 Stipulated and Agreed to:

2 DATED this 20 day of ^{January} December, 2014.

3 GORDON & REES, LLP

4
5 Joseph P. Hardy, Esq.
NV Bar No.: 7370

6 Ashlie L. Surer
NV Bar No.: 11290
7 3770 Howard Hughes Parkway, Suite 100
Las Vegas, NV 89169
8 *Attorneys for Performance CAM, LLC and
Boulder Ranch Master Association*

9 DATED this 21st day of ^{January 2015} December, 2014.

10 LIPSON NEILSON COLE SELTZER & GARIN, P.C.

11
12 Joseph P. Garin, Esq.
NV Bar No.: 6653

13 Angela Ochoa, Esq.
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15 *Attorneys for Defendants First Light HOA, Nicklin
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and Roger Eisel*

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1 DATED this 17th day of December, 2014.

2 CALLISTER, ~~SMITH~~ & ASSOCIATES

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4  #11920 for:

5 Matthew Q. Callister, Esq.
6 NV Bar No.: 1396
7 Thomas N. Beckom, Esq.
8 NV Bar No.: 12554
9 823 S. Las Vegas Blvd., 3rd Floor
10 Las Vegas, NV 89144
11 Attorneys for Plaintiff

12 IT IS SO ORDERED:

13 Dated this 22nd day of January, 2015.


United States Magistrate Judge

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