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 10 *and Donald Kasdon*

11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF NEVADA**

13 ATLANTIC-PACIFIC PROCESSING
 14 SYSTEMS, INC., a California corporation,

CASE NO. 2:16-CV-00739-JAD-PAL

15 Plaintiff,

**STIPULATION AND [PROPOSED]
 ORDER RE DEFENDANTS DONALD
 KASDON AND T1 PAYMENTS LLC'S
 EMERGENCY MOTION TO QUASH
 SUBPOENAS DUCES TECUM AND FOR
 PROTECTIVE ORDER [DKT. 121] AND
 SUPPLEMENT TO EMERGENCY
 MOTION TO QUASH SUBPOENAS
 DUCES TECUM AND FOR
 PROTECTIVE ORDER [DKT. 122].**

16 vs.

17 DERMAKTIVE, LLC, a Florida limited liability
 18 company; JORDAN DUFNER, a Connecticut
 19 resident; ADAM WELLINGTON, a Connecticut
 20 resident; JOE HELEWA, a New York resident;
 21 UPSURGE, LLC, a Delaware limited liability
 22 company; UPSURGE MEDIA GROUP, LLC, a
 23 Delaware limited liability company; WIDO,
 24 LLC, a Delaware limited liability company,
 25 DENIS BETSI, an Ontario, Canada resident; T1
 26 PAYMENTS, LLC, a Nevada limited liability
 27 company; and DONALD KADSON, a Nevada
 28 resident,

Defendants.

DERMAKTIVE, LLC, a Florida limited liability
 company; and JORDAN DUFNER, a
 Connecticut resident,

Counter-Plaintiffs,

v.

ATLANTIC-PACIFIC PROCESSING
 SYSTEMS, INC., a California corporation,

Counter-Defendant.

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1 Defendants T1 PAYMENTS LLC and DONALD KASDON (the “T1 Parties”), and,
2 Plaintiff ATLANTIC-PACIFIC PROCESSING SYSTEMS, INC. (“APPS”), Defendants
3 DERMAKTIVE, LLC, JORDAN DUFNER, and specially appearing Defendants ADAM
4 WELLINGTON, UPSURGE, LLC, UPSURGE MEDIA GROUP, LLC, and WIDO, LLC (the
5 “DermAktive Defendants”) (all parties hereto collectively the “Parties”), by and through their
6 respective counsel, hereby agree as follows and submit the following Stipulation and [Proposed]
7 Order by and through their counsel, and hereby agree to the following recitals in resolution of
8 Defendants Donald Kasdon and T1 Payments LLC’s Emergency Motion to Quash Subpoenas
9 Duces Tecum and for Protective Order [Dkt. 121] and Supplement thereto [Dkt. 122].

10 **RECITALS**

11 **WHEREAS**, On December 7, 2017, counsel for the T1 Parties was notified for the first
12 time by counsel for APPS that Subpoenas Duces Tecum were issued to Vantiv, LLC; Network
13 Merchants, LLC; and Payvision (collectively, the “Subpoenas”);

14 **WHEREAS**, On December 8, 2017, counsel for the T1 Parties sent an Objection Letter
15 to the Subpoenas.

16 **WHEREAS**, On December 8, 2017, Kory L. Kaplan, Esq. (“Mr. Kaplan”), counsel for
17 the T1 Parties, and Catherine A. Close, Esq. (“Ms. Close”), counsel for APPS, met and
18 conferred.

19 **WHEREAS**, On December 8, 2017, Donald Kasdon and T1 Payments LLC filed an
20 Emergency Motion to Quash Subpoenas Duces Tecum and for Protective Order [Dkt. 121].

21 **WHEREAS**, On December 11, 2017, the T1 Parties filed a Supplement to their
22 Emergency Motion to Quash Subpoenas Duces Tecum and for Protective Order [Dkt. 122].

23 **WHEREAS**, On December 14, 2017, APPS filed a Response to the T1 Parties’
24 Emergency Motion to Quash Subpoenas Duces Tecum and for Protective Order [Dkt. 125].

25 **WHEREAS**, Between December 18, 2017 and December 20, 2017, Mr. Kaplan and Ms.
26 Close “met and conferred” again and were able to come to an agreement as outlined in this
27 stipulation.

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WHEREAS, Ms. Close:

(1) notified all subpoenaed parties that the previously issued subpoenas duces tecum were withdrawn and reissued with notice to undersigned counsel;

(2) notified Quantum Legal Support and Hutchison & Steffen, the deposition officers, to destroy all records provided in response to the subpoenas duces tecum, and any copies, notes or other materials that would reveal the contents of the documents received, if any have been produced or received; and

(3) provided declarations from Quantum Legal Support and Hutchison & Steffen stating that any documents that had already been received were not produced to APPS or its counsel and that no documents were able to be received in the future since the upload function was disabled.

WHEREAS, The T1 Parties engaged the services of Litigation Services to act as the substitute deposition officer to receive the documents responsive to the subpoenas duces tecum, Bates label them if they are not already when received, and provide them to Mr. Kaplan only.

WHEREAS, The T1 Parties will review the documents responsive to the subpoenas duces tecum, redact if necessary, and provide a privilege log to Ms. Close by January 15, 2018. However, if the documents are voluminous, the Parties agree in good faith to allow an additional reasonable amount of time for the T1 Parties to review and redact, if necessary.

WHEREAS, If APPS has any objections to the redactions by the T1 Parties, if any, the T1 Parties will submit the unredacted documents to the Court for an in camera review and both Parties may submit further briefing in support of their positions.

STIPULATION

IT IS THEREFORE STIPULATED AND AGREED by and between the parties hereto as follows:

1. The Hearing on Donald Kasdon and T1 Payments' Emergency Motion to Quash Subpoenas Duces Tecum and for Protective Order [Dkt. 121] and Supplement thereto [Dkt. 122], currently scheduled for January 16, 2018, is vacated, with the Parties to each bear their own attorneys' fees and costs;

2. The T1 Parties will review the documents responsive to the subpoenas duces

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1 tecum, redact if necessary, and provide a privilege log to Ms. Close by January 15, 2018.
2 However, if the documents are voluminous, the Parties agree in good faith to allow an additional
3 reasonable amount of time for the T1 Parties to review and redact, if necessary.

4 3. If APPS has any objections to the redactions by the T1 Parties, if any, the T1
5 Parties will submit the unredacted documents to the Court for an in camera review and both
6 Parties may submit further briefing in support of their positions.

7 **IT IS SO STIPULATED.**

8 DATED this 27th day of December, 2017

9 JULANDER, BROWN & BOLLARD

10
11 By /s/ Dirk O. Julander
12 DIRK O. JULANDER
13 *Pro Hac Vice*
14 9110 Irvine Center Drive
15 Irvine, California 92618
16 Tel. (949) 477-2100

17 *Attorneys for Plaintiff and Cross-Defendant*
18 *Atlantic-Pacific Processing Systems, Inc*

19 DATED this 27th day of December, 2017

20 LARSON, ZIRZOW & KAPLAN

21 By /s/ Kory L. Kaplan
22 KORY L. KAPLAN
23 850 E. Bonneville Ave.
24 Las Vegas, NV 89101
25 Tel. (702) 382-1170
26 *Attorney for Donald Kasdon*
27 *and T1 Payments LLC*
28

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ORDER


Based on the foregoing Stipulation and good cause appearing, it is hereby ORDERED as follows:

1. The Hearing on Donald Kasdon and T1 Payments' Emergency Motion to Quash Subpoenas Duces Tecum and for Protective Order [Dkt. 121] and Supplement thereto [Dkt. 122], currently scheduled for January 16, 2018, is vacated, with the Parties to each bear their own attorneys' fees and costs;

2. The T1 Parties will review the documents responsive to the subpoenas duces tecum, redact if necessary, and provide a privilege log to Ms. Close by January 15, 2018. However, if the documents are voluminous, the Parties agree in good faith to allow an additional reasonable amount of time for the T1 Parties to review and redact, if necessary.

3. If APPS has any objections to the redactions by the T1 Parties, if any, the T1 Parties will submit the unredacted documents to the Court for an in camera review and both Parties may submit further briefing in support of their positions.

IT IS SO ORDERED.


U.S. Magistrate Judge

Date: January 4, 2018