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 Bank of America, N.A., successor by merger  
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 9

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

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12 BANK OF AMERICA, N.A., SUCCESSOR BY  
 MERGER TO BAC HOME LOANS  
 13 SERVICING, LP F/K/A COUNTRYWIDE  
 HOME LOANS SERVICING LP,

Case No.: 2:16-cv-00794-GMN-CWH

14  
 15 Plaintiff,

**STIPULATED PROTECTED ORDER**

16 vs.

17 MONTE BELLO HOMEOWNERS  
 ASSOCIATION, INC.; ATC ASSESSMENT  
 18 COLLECTION GROUP, LLC; AND EAGLE  
 INVESTORS,

19 Defendants.

20 EAGLE INVESTORS, a Nevada corporation,

21 Counterclaimant,

22 vs.

23 BANK OF AMERICA, N.A., SUCCESSOR BY  
 MERGER TO BAC HOME LOANS  
 24 SERVICING, LP F/K/A COUNTRYWIDE  
 HOME LOANS SERVICING, a national bank,  
 25 DOE INDIVIDUALS I-X; and ROE  
 CORPORATIONS I-X, INCLUSIVE,

26 Counter-Defendants.  
 27  
 28

1 Subject to the approval of the Court, plaintiff and counter-defendant Bank of America, N.A.,  
2 successor by merger to BAC Home Loans Servicing LP, defendant Monte Bello Homeowners  
3 Association, Inc., defendant ATC Assessment Collection Group, LLC, and defendant and counter-  
4 claimant Eagle Investors, stipulate as follows:

5 To expedite the flow of discovery, facilitate the prompt resolution of disputes over  
6 confidentiality, adequately protect material claimed to be confidential, and ensure protection is  
7 afforded only to material so designated, it is, pursuant to the Court's authority under FED. R. CIV. P.  
8 26(c), **ORDERED** this Protective Order shall govern the disclosure, handling and disposition of  
9 documents in this litigation as follows:

10 1. **Application.**

11 1.1 This Protective Order shall govern any document, information or other material that  
12 is designated as containing “Confidential Information” as defined herein, and is produced in  
13 connection with this litigation by any person or entity (the “producing party”), whether in response  
14 to a discovery request, subpoena or otherwise, to any other person or entity (the “receiving party”)  
15 regardless of whether the person or entity producing or receiving such information is a party to this  
16 litigation.

17 2. **Definitions.**

18 2.1 Confidential Information. “Confidential Information” shall mean and include,  
19 without limitation, any non-public information that concerns or relates to the following areas:  
20 confidential proprietary information, trade secrets, practices and procedures, personal financial  
21 information, commercial, financial, pricing, budgeting, and/or accounting information, information  
22 about existing and potential customers, marketing studies, performance projections, business  
23 strategies, decisions and/or negotiations, personnel compensation, evaluations and other  
24 employment information, and confidential proprietary information about affiliates, parents,  
25 subsidiaries and third-parties with whom the parties to this action have or have had business  
26 relationships.

27 2.2 Documents. As used herein, the term “documents” includes all writings, records,  
28 files, drawings, graphs, charts, photographs, e-mails, video tapes, audio tapes, compact discs,



1 information stored on such data storage device, the receiving party or other authorized person shall  
2 mark each page so copied with the label or stamp specified in subparagraph 3.2.

3 3.3 Interrogatory Answers. If a party answering an interrogatory or other discovery  
4 demand believes that its answer contains Confidential Information, it shall state so in the  
5 interrogatory response, and that portion of the response will be entitled to the protections of this  
6 order.

7 3.4 Inspection of Documents. In the event a party elects to produce files and records for  
8 inspection and the requesting party elects to inspect them, no designation of Confidential  
9 Information needs to be made in advance of the inspection. For purposes of such inspection, all  
10 material produced shall be considered as Confidential Information. If the inspecting party selects  
11 specified documents to be copied, the producing party shall designate Confidential Information in  
12 accordance with subparagraph 3.2 at the time the copies are produced.

13 3.5 Deposition Transcripts. The party asserting confidentiality shall state on the record  
14 the portions it deems confidential. The failure to designate testimony on the record as confidential  
15 shall be a waiver unless the designating party notifies all other parties and files a motion to  
16 designate the testimony as confidential within 5 days of the notification.

17 3.6 Inadvertent Failure to Designate. Inadvertent failure to identify documents or things  
18 as "Confidential" pursuant to this Protective Order shall not constitute a waiver of any otherwise  
19 valid claim for protection, provided that the provisions of this paragraph are satisfied. If the  
20 designating party discovers that information should have but was not designated "Confidential" or  
21 of the designating party receives notice that would enable the designated party to learn that it has  
22 disclosed such information, the designating party must immediately notify all other parties. In such  
23 event, within thirty (30) days of notifying all other parties, the designating parties must also provide  
24 copies of the "Confidential" information designated in accordance with this Protective Order. After  
25 receipt of such re-designated information, the "Confidential" information shall be treated as  
26 required by this Protective Order, and the receiving party(ies) shall promptly, and in no event more  
27 than fourteen (14) calendar days from the receipt of the re-designated information, return to the  
28 designated party all previously produced copies of the same unlegended documents or things. The

1 designating party and the parties may agree to alternative means. The receiving party(ies) shall  
2 receive no liability, under this Protective Order or otherwise, for any disclosure of information  
3 contained in unlegended documents or things occurring before the receiving party was placed on  
4 notice of the designating party's claims of confidentiality.

5 4. **Designations by Another Party.**

6 4.1 Notification of Designation. If a party other than the producing party believes that a  
7 producing party has produced a document that contains or constitutes Confidential Information of  
8 the non-producing party, the non-producing party may designate the document as Confidential  
9 Information by so notifying all parties in writing within fourteen (14) days of service of the  
10 document.

11 4.2 Return of Documents; Non-disclosure. Whenever a party other than the producing  
12 party designates a document produced by a producing party as Confidential Information in  
13 accordance with subparagraph 4.1, each party receiving the document shall either add the  
14 Confidential Information designation in accordance with subparagraph 3.2 or substitute a copy of  
15 the document bearing such designation for each copy of the document produced by the producing  
16 party. Each party shall destroy all undesignated copies of the document or return those copies to the  
17 producing party, at the direction of the producing party. No party shall disclose a produced  
18 document to any person, other than the persons authorized to receive Confidential Information  
19 under subparagraph 7.1, until after the expiration of the fourteen (14) day designation period  
20 specified in subparagraph 4.1. If during the fourteen (14) day designation period a party discloses a  
21 produced document to a person authorized to receive Confidential Information under subparagraph  
22 7.1, and that document is subsequently designated as Confidential Information in accordance with  
23 subparagraph 4.1, the disclosing party shall cause all copies of the document to be destroyed or  
24 returned to the producing party, at the direction of the producing party. The party may thereafter  
25 disclose a copy of the document that has been marked as Confidential Information by the  
26 designating party, in accordance with subparagraphs 3.2 and 7.1.

27 5. **Objections to Designations.** Any party objecting to a designation of Confidential  
28 Information, including objections to portions of designations of multi-page documents, shall notify

1 the designating party and all other parties of the objection in writing up to and through trial of the  
2 matter. This notice must specifically identify each document that the objecting party in good faith  
3 believes should not be designated as Confidential Information and provide a brief statement of the  
4 grounds for such belief. In accordance with the Federal Rules of Civil Procedure governing  
5 discovery disputes, the objecting and the designating parties thereafter shall confer within ten (10)  
6 days after the date of such objection in an attempt to resolve their differences. If the parties are  
7 unable to resolve their differences, the objecting party shall have twenty one (21) days after the  
8 conference concludes to file with the Court a motion to remove the Confidential Information. If an  
9 objection is served within forty-two (42) days of trial, the objecting party must file its motion to  
10 remove the Confidential Information designation within half of the remaining time before trial, and  
11 the meet-and-confer period shall be shortened accordingly. Where a party authored, created, owns,  
12 or controls a document, information or other material that another party designates as Confidential  
13 Information, the party that authored, created, owns, or controls the Confidential Information may so  
14 inform the objecting party and thereafter shall also be considered a designating party for purposes  
15 of this paragraph.

16 All documents, information and other materials initially designated as Confidential  
17 Information shall be treated as such in accordance with this Protective Order unless and until the  
18 Court rules otherwise, except for deposition transcripts and exhibits initially considered as  
19 containing Confidential Information under subparagraph 3.5, which will lose their confidential  
20 status after twenty-one (21) days unless so designated as Confidential Information. If the Court  
21 rules that a designation should not be maintained as to a particular document, the producing party  
22 shall, upon written request by a party, provide that party a copy of that document without the  
23 designation described in subparagraph 3.2.

24 If an objecting party elects not to make such a motion with respect to documents within  
25 twenty one (21) days after the conference, information or other materials to which an objection has  
26 been made, the objection shall be deemed withdrawn. The designating party shall have twenty one  
27 (21) days to respond to the objecting party's motion. If no response is filed by the designating party  
28

1 within twenty one (21) days, the designating party shall be deemed to have consented to the  
2 objecting party's motion pursuant to LR 7-2(d).

3 6. **Custody.** All Confidential Information and any and all copies, extracts and  
4 summaries thereof, including memoranda relating thereto, shall be retained by the receiving party in  
5 the custody of counsel of record, or by persons to whom disclosure is authorized under  
6 subparagraph 7.1.

7 7. **Handling Prior to Trial.**

8 7.1 Authorized Disclosures. Confidential Information shall be disclosed by the receiving  
9 party only to the following persons:

10 a. Counsel for the parties in this litigation, including their associates, clerks, paralegals,  
11 and secretarial personnel;

12 b. Qualified persons taking testimony in this litigation involving such Confidential  
13 Information, and necessary stenographic, videotape and clerical personnel;

14 c. Experts and their staff who are retained by counsel as expert witnesses for a party in  
15 this litigation;

16 d. Experts and their staff who are consulted by counsel for a party in this litigation;

17 e. Parties to this litigation, limited to the named party and, if that party is a corporate  
18 entity, a limited number of employees of the corporate entity and its insurers;

19 f. Designated in-house counsel and a limited number of assistants, administrative or  
20 otherwise;

21 g. Outside vendors employed by counsel for copying, scanning and general handling of  
22 documents;

23 h. Any person of whom testimony is taken regarding the Confidential Information,  
24 except that such person may only be shown Confidential Information during his/her testimony, and  
25 may not retain a copy of such Confidential Information; and

26 i. This Court and this Court's staff, subject to the Court's processes for filing materials  
27 under seal.

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1           Such disclosures are authorized only to the extent necessary to investigate, prosecute, or  
2 defend the litigation.

3           Confidential Information may not be disclosed to persons under subparagraphs (c) or (d)  
4 until the receiving party has obtained a written acknowledgment from the person receiving  
5 Confidential Information, in the form of the Declaration attached hereto as Exhibit A, that he or she  
6 has received a copy of this Protective Order and has agreed to be bound by it. A party who discloses  
7 Confidential Information in accordance with subparagraph 7.1 shall retain the written  
8 acknowledgment from each person receiving Confidential Information, shall maintain a list of all  
9 persons to whom a receiving party has disclosed Confidential Information and identify what  
10 documents have been disclosed, and shall furnish the written acknowledgments and disclosure list  
11 to opposing counsel as follows: (i) for a person under subparagraph (c), within thirty (30) days after  
12 the person signs the Declaration; and (ii) for a person under subparagraph (d), within thirty (30)  
13 days after the matter is finally concluded. Disclosure of Confidential Information to this Court,  
14 including judicial staff, shall be made in accordance with subparagraph 7.4 of this Protective Order.

15           7.2     Unauthorized Disclosures. All persons receiving Confidential Information under the  
16 terms of this Protective Order are under the jurisdiction of the state courts and U.S. federal courts  
17 located in Nevada for all matters arising from the improper disclosure or use of such information. If  
18 Confidential Information is disclosed to any person other than in the manner authorized by this  
19 Protective Order, the party or person responsible for the disclosure, and any other party or person  
20 who is subject to this Protective Order and learns of such disclosure, shall immediately bring such  
21 disclosure to the attention of the designating party. Without prejudice to other rights and remedies  
22 of the designating party, the responsible party or person shall make every effort to obtain and return  
23 the Confidential Information and to prevent further disclosure on its own part or on the part of the  
24 person who was the unauthorized recipient of such information.

25           7.3     Court Filings. In the event any Confidential Information must be filed with the Court  
26 prior to trial, the proposed filing shall be accompanied by a motion to file the Confidential  
27 Information under seal that complies with Local Rule 10-5(b) and a proposed order, and the  
28 application and proposed order shall be directed to the judge to whom the Confidential Information



1 is directed. This provision is applicable to briefs, memoranda, and other filings which quote,  
2 summarize, or describe Confidential Information.

3 8. **Care in Storage.** Any person in possession of Confidential Information produced by  
4 another party shall exercise reasonable and appropriate care with regard to the storage, custody,  
5 copying, and use of such information to ensure that the confidential and sensitive nature of same is  
6 maintained.

7 9. **Handling During Trial.** Confidential Information that is subject to this Order may  
8 be marked and used as trial exhibits by either party, subject to terms and conditions as imposed by  
9 the Court upon application by any party.

10 10. **No Implied Waivers.** This Protective Order shall not be interpreted as a waiver of  
11 the right to object, under applicable law, to the furnishing of information in response to discovery  
12 requests or to object to a requested inspection of documents or facilities. Parties producing  
13 Confidential Information in this litigation are doing so only pursuant to the terms of this Protective  
14 Order. The taking of any action in accordance with the provisions of this Protective Order shall not  
15 be interpreted as a waiver of any claim or position or defense in this action, or any other actions.

16 11. **No Admission.** The designation of any item as Confidential Information shall not be  
17 construed as an admission that such material, or any testimony concerning such material, would be  
18 admissible in evidence in this litigation or in any other proceeding.

19 12. **Inadvertent Disclosure.** Nothing in this Protective Order abridges applicable law  
20 concerning inadvertent disclosure of a document that the Disclosing Party believes contains  
21 attorney-client communications, attorney work product, or otherwise privileged information. If a  
22 party inadvertently discloses documents or information subject to a claim of privilege or work  
23 product protection, such disclosure will not waive otherwise applicable claims of privilege or work  
24 product protection under applicable law. Upon discovery by the Receiving Party, or receipt of  
25 written notice from the Disclosing Party identifying privileged or protected Documents that were  
26 inadvertently produced, the receiving party shall within seven (7) business days either: (a) return or  
27 certify the destruction of all such documents, all copies, and any work product or portions of any  
28 work product containing or reflecting the contents of the subject materials; or (b) after attempting to

1 resolve any dispute with opposing counsel informally, file a motion to challenge the assertion of  
2 privilege and tender the subject documents for in camera review with the motion. The moving party  
3 shall do nothing to compromise the privilege claim until the Court rules on said motion and the  
4 opportunity for appellate review is exhausted or the issue is otherwise resolved.

5 13. **Parties' Own Documents.** This Protective Order shall in no way restrict the parties  
6 in their use of their own documents and information, and nothing in this Protective Order shall  
7 preclude any party from voluntarily disclosing its own documents or information to any party or  
8 nonparty.

9 14. **Motion by Third Party to Compel Production of Confidential Information.** If  
10 any third party subpoenas Confidential Information from a party to this action or moves to compel a  
11 party to this action to produce any such information, such party shall immediately notify the parties  
12 who originally produced and/or designated such information that a subpoena has been served or a  
13 motion has been made in order to allow the parties who originally produced and/or designated such  
14 information the opportunity to seek a protective order or oppose the motion or application. If,  
15 within thirty (30) days after receiving notice of a subpoena seeking Confidential Information from a  
16 receiving party, the party who originally produced and/or designated such information fails to move  
17 for a protective order, the party subject to the subpoena may produce said information. In addition,  
18 if a party is ordered to produce Confidential Information covered by this Protective Order, then  
19 notice and, if available, a copy of the order compelling disclosure shall immediately be given the  
20 parties who originally produced and/or designated such information. Nothing in this Protective  
21 Order shall be construed as requiring the party who is ordered to produce such Confidential  
22 Information to challenge or appeal any order requiring the production of such information or to  
23 subject himself/herself to any penalty for non-compliance with any legal process or seek any relief  
24 from the Court.

25 15. **No Effect on Other Rights.** This Protective Order shall in no way abrogate or  
26 diminish any pre-existing contractual, statutory, or other legal obligations or rights of any party  
27 with respect to Confidential Information.  
28

1           16.     **Modification.** In the event any party hereto seeks a Court order to modify the terms  
2 of this Protective Order, or seeks a protective order which incorporates the terms and conditions of  
3 this Protective Order said party shall make such request by written stipulation or noticed motion to  
4 all parties that must be served and filed in accordance with local court rules.

5           17.     **Handling Upon Conclusion of Litigation.** All parties, counsel, and persons to  
6 whom disclosure was made agree to return all Confidential Information to the designating party  
7 within thirty (30) days of the conclusion of litigation between the parties, including final appellate  
8 action or the expiration of time to appeal or seek further review. In addition, counsel shall certify in  
9 writing that all such Confidential Information have been returned. Counsel for each party also shall  
10 contact each person to whom that party has provided a copy of any Confidential Information and  
11 request the documents be returned. In lieu of returning Confidential Information, the person or party  
12 in possession of such information may elect to destroy it. If the person or party in possession of  
13 Confidential Information elects to destroy it rather than return it, that person or party must notify  
14 the designating party in writing of the destruction of the information within ninety (90) days of the  
15 conclusion of litigation between the parties, including final appellate action or the expiration of  
16 time to appeal or seek further review.

17           18.     **Survival of the Terms of this Protective Order.** Even after the termination of this  
18 litigation, the confidentiality obligations imposed by this Protective Order shall remain in effect until  
19 a Designating Party otherwise in writing or a court order otherwise directs.

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1 Dated the 9<sup>th</sup> day of October, 2017.

2 **AKERMAN LLP**

3  
4 /s/ Karen A. Whelan  
5 **DARREN T. BRENNER, ESQ.**  
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12 Bank of America, N.A., successor by merger to  
13 BAC Home Loans Servicing, LP f/k/a  
14 Countrywide Home Loans Servicing LP

15 Dated the 9<sup>th</sup> day of October, 2017.

16 **LEACH JOHNSON SONG & GRUCHOW**

17 /s/ Chase Pittsenbarger  
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24 Attorneys for defendant Monte Bello  
25 Homeowners Association, Inc.

Dated the 9<sup>th</sup> day of October, 2017.

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Attorneys for defendant and counter-claimant  
Eagle Investors

Dated the 9<sup>th</sup> day of October, 2017.

**NEVADA ASSOCIATION SERVICES, INC.**

/s/ Brandon Wood  
**BRANDON WOOD**  
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Las Vegas, Nevada 89146

Attorneys for defendant ATC Assessment  
Collection Group, LLC

**IT IS SO ORDERED.**

  
**UNITED STATES MAGISTRATE JUDGE**

**DATED:** October 11, 2017

**EXHIBIT A**

**ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_, and read in its entirety and understand the Protective Order that was issued by the United States District Court, for the District of Nevada, on \_\_\_\_\_, 2016, in the case of Bank of America, N.A Successor by Merger to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing, LP. v. Monte Bello Homeowners Association, Inc. et al, Case No.: 2:16:cv-00794-GMN-CWH. I agree to comply with and be bound by all terms of this Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order to any person or entity except in strict compliance with this Protective Order. Further, I solemnly promise that I will not offer to sell, advertise or publicize that I have obtained any protected material subject to this Protective Order.

At the conclusion of this matter, I will return all protected materials which came into my possession or control to counsel for the party from whom I received the protected material, or I will destroy those materials. I understand that any confidential information contained within any summaries of protected material shall remain protected pursuant to the terms of this Order.

I further agree to submit to the jurisdiction of the United States District Court, for the District of Nevada for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action.

I certify under penalty of perjury that the foregoing is true and correct.

Date: \_\_\_\_\_

City and State where signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_