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 8 *Bank, N.A., incorrectly named as Chase Bank,*
National Association

9
 10 UNITED STATES DISTRICT COURT
 11 DISTRICT OF NEVADA

12 JOSEPH BORDONARO,
 13 Plaintiff,

14 v.

15 CHASE BANK, NATIONAL
 16 ASSOCIATION; ONEWEST BANK,
 NATIONAL ASSOCIATION; BANK OF
 17 AMERICA, NATIONAL ASSOCIATION;
 FRANKLIN CAPITAL FINANCIAL
 18 SERVICES; EQUIFAX INFORMATION
 INFORMATION SERVICES, INC.

19
20 Defendants.

CASE NO. 2:16-cv-00961-GMN-NJK

21 **STIPULATED PROTECTIVE ORDER**
REGARDING THE HANDLING AND
USE OF CONFIDENTIAL
INFORMATION

22 as amended on
 23 page 11

21 **1. PURPOSES AND LIMITATIONS**

22 Disclosure and discovery activity in this action are likely to involve production of
 23 confidential, proprietary, or private information that may warrant special protection
 24 from public disclosure and from use for any purpose other than prosecuting this
 25 litigation. Accordingly, the undersigned parties hereby stipulate to and petition the
 26 court to enter the following Stipulated Protective Order. The parties acknowledge that
 27 this Order does not confer blanket protections on all disclosures or responses to
 28

1 discovery and that the protection it affords from public disclosure and use extends only
2 to the limited information or items that are entitled to confidential treatment under
3 the applicable legal principles. The parties further acknowledge that this Stipulated
4 Protective Order does not entitle them to file confidential information under seal; Local
5 Rule IA 10-5 sets forth the procedures that must be followed when a party seeks
6 permission from the court to file material under seal.

7 **2. DEFINITIONS**

8 **2.1 Challenging Party:** a Party or Non-Party that challenges the designation
9 of information or items under this Order.

10 **2.2 “CONFIDENTIAL” Information or Items:** information (regardless of how
11 it is generated, stored or maintained) or tangible things that qualify for protection
12 under Federal Rule of Civil Procedure 26(c).

13 **2.3 Counsel (without qualifier):** Outside Counsel of Record and House
14 Counsel (as well as their support staff).

15 **2.4 Designating Party:** a Party or Non-Party that designates information or
16 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

17 **2.5 Disclosure or Discovery Material:** all items or information, regardless of
18 the medium or manner in which it is generated, stored, or maintained (including,
19 among other things, testimony, transcripts, and tangible things), that are produced or
20 generated in disclosures or responses to discovery in this matter.

21 **2.6 Expert:** a person with specialized knowledge or experience in a matter
22 pertinent to the litigation who has been retained by a Party or its counsel to serve as
23 an expert witness or as a consultant in this action.

24 **2.7 House Counsel:** attorneys who are employees of a party to this action.
25 House Counsel does not include Outside Counsel of Record or any other outside
26 counsel.

27 **2.8 Non-Party:** any natural person, partnership, corporation, association, or
28 other legal entity not named as a Party to this action.

1 **2.9 Outside Counsel of Record:** attorneys who are not employees of a party to
2 this action but are retained to represent or advise a party to this action and have
3 appeared in this action on behalf of that party or are affiliated with a law firm which
4 has appeared on behalf of that party.

5 **2.10 Party:** any party to this action, including all of its officers, directors,
6 employees, consultants, retained experts, and Outside Counsel of Record (and their
7 support staffs).

8 **2.11 Producing Party:** a Party or Non-Party that produces Disclosure or
9 Discovery Material in this action.

10 **2.12 Professional Vendors:** persons or entities that provide litigation support
11 services (e.g., photocopying, videotaping, translating, preparing exhibits or
12 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
13 their employees and subcontractors.

14 **2.13 Protected Material:** any Disclosure or Discovery Material that is
15 designated as "CONFIDENTIAL."

16 **2.14 Receiving Party:** a Party that receives Disclosure or Discovery Material
17 from a Producing Party.

18 **3. SCOPE**

19 The protections conferred by this Stipulation and Order cover not only Protected
20 Material (as defined above), but also (1) any information copied or extracted from
21 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
22 Material; and (3) any testimony, conversations, or presentations by Parties or their
23 Counsel that might reveal Protected Material. However, the protections conferred by
24 this Stipulation and Order do not cover the following information: (a) any information
25 that is in the public domain at the time of disclosure to a Receiving Party or becomes
26 part of the public domain after its disclosure to a Receiving Party as a result of
27 publication not involving a violation of this Order, including becoming part of the
28 public record through trial or otherwise; and (b) any information known to the

Receiving Party prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the information lawfully and under no obligation of confidentiality to the Designating Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

4. DURATION

Even after final disposition of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time limits for filing any motions or applications for extension of time pursuant to applicable law.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify – so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

- (a) for information in documentary form (e.g., paper or electronic documents,

1 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
2 Producing Party affix the legend “CONFIDENTIAL” to each page that contains
3 protected material. If only a portion or portions of the material on a page qualifies for
4 protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,
5 by making appropriate markings in the margins).

6 (b) for testimony or argument given in deposition or in other pretrial or trial
7 proceedings, that the Designating Party identify all protected testimony within 30 days
8 of receiving the transcript, or within 30 days of entry of this Stipulated Protective
9 Order, whichever is later. Designations may be made on the record, before the close of
10 the deposition, hearing, or other proceeding, or by letter to counsel of record. During
11 the 30 day period, the entire deposition transcript shall be treated as confidential; if no
12 confidential designations are made within the 30 day period, the entire transcript shall
13 be considered non-confidential.

14 (c) for information produced in some form other than documentary and for any
15 other tangible items, that the Producing Party affix in a prominent place on the
16 exterior of the container or containers in which the information or item is stored the
17 legend “CONFIDENTIAL.” If only a portion or portions of the information or item
18 warrant protection, the Producing Party, to the extent practicable, shall identify the
19 protected portion(s).

20 **5.3 Inadvertent Failures to Designate.** If timely corrected, an inadvertent
21 failure to designate qualified information or items does not, standing alone, waive the
22 Designating Party’s right to secure protection under this Order for such material. Upon
23 timely correction of a designation, the Receiving Party must make reasonable efforts to
24 assure that the material is treated in accordance with the provisions of this Order.

25 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

26 **6.1 Timing of Challenges.** A Party or Non-Party must challenge a designation
27 of confidentiality within 30 days of receiving Protected Material.

28 **6.2 Meet and Confer.** The Challenging Party shall initiate the dispute

1 resolution process by providing written notice of each designation it is challenging and
2 describing the basis for each challenge. To avoid ambiguity as to whether a challenge
3 has been made, the written notice must recite that the challenge to confidentiality is
4 being made in accordance with this specific paragraph of the Protective Order. The
5 parties shall attempt to resolve each challenge in good faith and must begin the process
6 by conferring directly (in voice-to-voice dialogue; other forms of communication are not
7 sufficient) within 14 days of the date of service of notice. In conferring, the Challenging
8 Party must explain the basis for its belief that the confidentiality designation was not
9 proper and must give the Designating Party an opportunity to review the designated
10 material, to reconsider the circumstances, and, if no change in designation is offered, to
11 explain the basis for the chosen designation. A Challenging Party may proceed to the
12 next stage of the challenge process only if it has engaged in this meet and confer
13 process first or establishes that the Designating Party is unwilling to participate in the
14 meet and confer process in a timely manner.

15 **6.3 Judicial Intervention.** If the Parties cannot resolve a challenge without
16 court intervention, the Designating Party shall file and serve a motion to retain
17 confidentiality under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5,
18 if applicable) within 21 days of the initial notice of challenge or within 14 days of the
19 parties agreeing that the meet and confer process will not resolve their dispute,
20 whichever is earlier. Each such motion must be accompanied by a competent
21 declaration affirming that the movant has complied with the meet and confer
22 requirements imposed in the preceding paragraph. Failure by the Designating Party to
23 make such a motion including the required declaration within 21 days (or 14 days, if
24 applicable) shall automatically waive the confidentiality designation for each
25 challenged designation. In addition, the Challenging Party may file a motion
26 challenging a confidentiality designation at any time if there is good cause for doing so,
27 including a challenge to the designation of a deposition transcript or any portions
28 thereof. Any motion brought pursuant to this provision must be accompanied by a

1 competent declaration affirming that the movant has complied with the meet and
2 confer requirements imposed by the preceding paragraph.

3 The burden of persuasion in any such challenge proceeding shall be on the
4 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g.,
5 to harass or impose unnecessary expenses and burdens on other parties) may expose
6 the Challenging Party to sanctions. Unless the Designating Party has waived the
7 confidentiality designation by failing to file a motion to retain confidentiality as
8 described above, all parties shall continue to afford the material in question the level of
9 protection to which it is entitled under the Producing Party's designation until the
10 court rules on the challenge.

11 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

12 **7.1 Basic Principles.** A Receiving Party may use Protected Material that is
13 disclosed or produced by another Party or by a Non-Party in connection with this case
14 only for prosecuting, defending, or attempting to settle this litigation. Such Protected
15 Material may be disclosed only to the categories of persons and under the conditions
16 described in this Order. When the litigation has been terminated, a Receiving Party
17 must comply with the provisions of Section 13 below (FINAL DISPOSITION).

18 Protected Material must be stored and maintained by a Receiving Party at a
19 location and in a secure manner that ensures that access is limited to the persons
20 authorized under this Order.

21 **7.2 Disclosure of "CONFIDENTIAL" Information or Items.** Unless otherwise
22 ordered by the court or permitted in writing by the Designating Party, a Receiving
23 Party may disclose any information or item designated "CONFIDENTIAL" only to:

24 (a) the Receiving Party's Outside Counsel of Record in this action, as well as
25 employees of said Outside Counsel of Record to whom it is reasonably necessary to
26 disclose the information for this litigation;

27 (b) the officers, directors, and employees (including House Counsel) of the
28 Receiving Party to whom disclosure is reasonably necessary for this litigation;

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and,

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as "CONFIDENTIAL," that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by

1 the Designating Party whose Protected Material may be affected.

2 If the Designating Party timely seeks a protective order, the Party served with
3 the subpoena or court order shall not produce any information designated in this action
4 as “CONFIDENTIAL” before a determination by the court from which the subpoena or
5 order issued, unless the Party has obtained the Designating Party’s permission. The
6 Designating Party shall bear the burden and expense of seeking protection in that
7 court of its confidential material – and nothing in these provisions should be construed
8 as authorizing or encouraging a Receiving Party in this action to disobey a lawful
9 directive from another court.

10 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
11 **THIS LITIGATION**

12 The terms of this Order are applicable to information produced by a Non-Party
13 in this action and designated as “CONFIDENTIAL.” Such information produced by
14 Non-Parties in connection with this litigation is protected by the remedies and relief
15 provided by this Order. Nothing in these provisions should be construed as prohibiting
16 a Non-Party from seeking additional protections.

17 In the event that a Party is required, by a valid discovery request, to produce a
18 Non-Party’s confidential information in its possession, and the Party is subject to an
19 agreement with the Non-Party not to produce the Non-Party’s confidential information,
20 then the Party shall:

21 (a) promptly notify in writing the Requesting Party and the Non-Party that some
22 or all of the information requested is subject to a confidentiality agreement with a Non-
23 Party;

24 (b) promptly provide the Non-Party with a copy of the Stipulated Protective
25 Order in this litigation, the relevant discovery request(s), and a reasonably specific
26 description of the information requested; and

27 (c) make the information requested available for inspection by the Non-Party.

28 If the Non-Party fails to object or seek a protective order from this court within

1 14 days of receiving the notice and accompanying information, the Receiving Party
2 may produce the Non-Party's confidential information responsive to the discovery
3 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
4 not produce any information in its possession or control that is subject to the
5 confidentiality agreement with the Non-Party before a determination by the court.
6 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
7 of seeking protection in this court of its Protected Material.

8 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

9 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
10 Protected Material to any person or in any circumstance not authorized under this
11 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
12 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to
13 retrieve all unauthorized copies of the Protected Material, (c) inform the person or
14 persons to whom unauthorized disclosures were made of all the terms of this Order,
15 and (d) request such person or persons to execute the "Acknowledgment and
16 Agreement to Be Bound" that is attached hereto as Exhibit A.

17 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
18 **PROTECTED MATERIAL**

19 When a Producing Party gives notice to Receiving Parties that certain
20 inadvertently produced material is subject to a claim of privilege or other protection,
21 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
22 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
23 may be established in an e-discovery order that provides for production without prior
24 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
25 parties reach an agreement on the effect of disclosure of a communication or
26 information covered by the attorney-client privilege or work product protection, the
27 parties may incorporate their agreement in the stipulated protective order submitted to
28 the court.

See order
issued
concurrently
herewith

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12. MISCELLANEOUS

12.1 **Right to Further Relief.** Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

12.2 **Right to Assert Other Objections.** By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 **Filing Protected Material.** ~~Any Party intending to make a court filing containing Protected Material or information derived therefrom shall notify the other Parties that it intends to do so, and shall provide the other Parties with a description of the Protected Material or information derived therefrom that it intends to include as part of the filing. Any other Party may request that the Party intending to make the filing containing Protected Material or information derived therefrom move for an order that the Protected Material or information derived therefrom be filed under seal. In the event such a request is made, the Party intending to file the Protected Material or information derived therefrom shall move in accordance with Local Rule 10-5 for an order to file under seal, after conferring in good faith with the Party that requested such motion as to the grounds for filing under seal. No Party shall make a court filing containing Protected Material or information derived therefrom without first complying with this subparagraph.~~

12.4 **Presenting Protected Material at Hearings or Trial.** Any Party intending to present at a hearing or trial Protected Material or information derived therefrom shall notify the other Parties that it intends to do so, and provide the other Parties with a description of the Protected Material or information derived therefrom that it intends to present. Upon motion of any Party, or at its own discretion, the court may make orders as necessary to govern the use of such Protected Material or information derived therefrom, such as orders requiring that Protected Material or information

1 derived therefrom be submitted in camera or that the hearing or trial, or any portion
2 thereof, be held in camera. No Party shall present at a hearing or trial Protected
3 Material or information derived therefrom without first complying with this
4 subparagraph.

5 **13. FINAL DISPOSITION**

6 A. Within 60 days after the final disposition of this action, as defined in
7 paragraph 4, each Receiving Party must return all Protected Material to the Producing
8 Party or destroy such material. As used in this subdivision, "all Protected Material"
9 includes all copies, abstracts, compilations, summaries, and any other format
10 reproducing or capturing any of the Protected Material. Whether the Protected
11 Material is returned or destroyed, the Receiving Party must submit a written
12 certification to the Producing Party (and, if not the same person or entity, to the
13 Designating Party) by the 60 day deadline that (1) identifies (by category, where
14 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
15 that the Receiving Party has not retained any copies, abstracts, compilations,
16 summaries or any other format reproducing or capturing any of the Protected Material.
17 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
18 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,
19 correspondence, deposition and trial exhibits, expert reports, attorney work product,
20 and consultant and expert work product, even if such materials contain Protected
21 Material. Any such archival copies that contain or constitute Protected Material
22 remain subject to this Protective Order as set forth in Section 4 (DURATION).

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24 *[Continued on following page.]*
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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 DATED September 29, 2016.

DATED September 29, 2016.

3
4 /s/ David Krieger_____
David H. Krieger
Haines & Krieger, LLC
5 8985 S. Eastern Avenue, Suite 350
Henderson, NV 89123

6
7 *Attorney for Plaintiff Joseph*
8 *Bordonaro*


/s/ Joseph Sakai_____
Abran E. Vigil
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Las Vegas, NV 89106

Attorneys for Defendant JPMorgan
Chase Bank, N.A., incorrectly
named as Chase Bank, National
Association

9
10 ”

11 **ORDER**

12 IT IS SO ORDERED.



13
14
15 United States

/Magistrate Judge

16 DATED: September 30, 2016
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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of _____
4 [print or type full address], declare under penalty of perjury that I have read in its
5 entirety and understand the Stipulated Protective Order that was issued by the United
6 States District Court for Nevada on [date] in the case of *Joseph Bordonaro v. Chase*
7 *Bank, National Association et al.*, Case No. 2:16-cv-00636-RFB-GWF (D. Nev.). I agree
8 to comply with and to be bound by all the terms of this Stipulated Protective Order and
9 I understand and acknowledge that failure to so comply could expose me to sanctions
10 and punishment in the nature of contempt. I solemnly promise that I will not disclose
11 in any manner any information or item that is subject to this Stipulated Protective
12 Order to any person or entity except in strict compliance with the provisions of this
13 Order.

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

17 I hereby appoint _____ [print or type full name] of
18 _____ [print or type full address and telephone
19 number] as my Nevada agent for service of process in connection with this action or
20 any proceedings related to enforcement of this Stipulated Protective Order.

21
22 Date: _____

23 City and State where sworn and signed: _____

24
25 Printed name: _____

26
27 Signature: _____