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

11 KURT WONG,
 12 Plaintiff,
 13 vs.
 14 WYNN LAS VEGAS, LLC, a Nevada Limited
 Liability Company,
 15 Defendants.
 16

RFB
 Case No. 2:20-cv-02086-~~RJB~~-NJK

STIPULATED PROTECTIVE ORDER

17
 18 Pursuant to Federal Rule of Civil Procedure 26(c), Defendant Wynn Las Vegas, LLC
 19 (“WLV” or “Defendant”) and Plaintiff Kurt Wong (“Plaintiff”), (collectively, Plaintiff and
 20 Defendant may be referred to as the “Parties”), by and through their respective counsel of record,
 21 anticipate discovery in this action will involve production and/or disclosure of confidential and/or
 22 private information and materials about non-parties requiring special protection from disclosure to
 23 and use by the public and unauthorized third-parties. Accordingly, the Parties hereby stipulate and
 24 agree that the handling of such information and materials in these proceedings shall be governed
 25 by the provisions set forth below.

26 **I. APPLICATION**

27 This Protective Order shall govern the designation and handling of “Confidential
 28 Information” (defined below) pertaining to non-parties, including Defendant’s former and current

1 employees, produced in this case, whether by voluntary production or disclosure or in response to
2 any formal discovery procedure, including designation and handling of nonpublic information of a
3 confidential nature. This Protective Order does not affect any party's obligations under the Federal
4 Rules of Civil Procedure to produce documents as required by the rules of discovery or an order of
5 the Court. The purpose of this Protective Order is to facilitate the handling of nonpublic information
6 of a confidential and/or private nature. If material is otherwise already part of the public record as
7 of the entry of this Protective Order, the material in question will not be subject to this Protective
8 Order. The mere filing or production of material designated as "Confidential" by the non-
9 designating party does not remove the material from the protection of this Protective Order.

10 **II. DEFINITIONS**

11 **A. "Confidential Information"** means information or an item, in any form, whether
12 tangible or intangible, that: (1) is in good faith designated as "Confidential" by the producing or
13 designating party, and (2) that, as claimed by the producing or designating party, contains non-
14 public personal information of a non-party (including, but not limited to, address, telephone
15 number, email address, birth date, social security number, employment records, medical
16 information, financial and banking information, etc.).

17 **B. "Disclosed"** is used in its broadest sense and includes, *inter alia*, directly or
18 indirectly shown, divulged, revealed, produced, described, transmitted or otherwise communicated,
19 in whole or in part.

20 **C. "Discovery Material(s)"** means any documents, electronically stored information,
21 responses to written discovery, deposition testimony, transcripts and exhibits, responses to
22 subpoenas, requests for information and/or written information, whether produced voluntarily or
23 involuntarily, or other disclosure or production in response to a discovery request in this litigation
24 by any party.

25 **D. "Document"** is defined as the term is used in Federal Rule of Civil Procedure 34.

26 **III. TYPES OF MATERIALS THAT MAY BE DESIGNATED AS CONFIDENTIAL**

27 Any Discovery Material or other documents, information, or materials may be designated
28 by a producing party or non-party as Confidential under this Order. A "Confidential" designation

1 shall constitute a representation to the Court that counsel for the producing party (or producing
2 person, in the case of a non-party) believes in good faith that the material so designated constitutes
3 Confidential Information as defined in this Order. To the extent practicable, only those parts of
4 Discovery Materials that require protection shall be designated as Confidential. Mass,
5 indiscriminate, or blanket designations are prohibited. Unjustified designations may expose the
6 designating party to sanctions, which could include, without limitation, the award of attorneys' fees
7 and costs, and the striking of confidential designations. If a designating party later learns that
8 information it designated as confidential does not qualify for protection, then the party must
9 promptly notify all Parties that it is withdrawing the mistaken designation.

10 **IV. DESIGNATION OF DISCOVERY MATERIALS AS CONFIDENTIAL**

11 **A. Marking Protected Documents.**

12 1. Protected documents shall be designated as containing Confidential
13 Information by affixing to them the legend "CONFIDENTIAL" in all caps, at least 10-point bold
14 font, in a location that makes the designation readily apparent, preferably in the lower left-hand
15 corner. The fact that a document is stamped "Confidential" by one party shall not be construed as
16 an admission by any other party that such document is Confidential Information, nor shall it limit
17 or preclude the right of any party to object to the designation and to file any appropriate motion(s)
18 to determine the propriety of such designation.

19 2. If the producing party inadvertently fails to stamp or otherwise appropriately
20 designate or list certain documents, material, or information as "Confidential" upon their production
21 or disclosure, such inadvertent failure to designate shall not constitute nor be deemed a waiver of a
22 subsequent claim of protected treatment under this Order.

23 **B. Designating Testimony.**

24 1. Any party may designate testimony as "Confidential Information" by
25 making a statement to that effect on the record at the deposition or other proceeding or within ten
26 (10) days after receipt of the transcript of deposition or other proceeding by counsel. When
27 Confidential Information is designated on the record at a deposition or other proceeding, the party
28 claiming the testimony is Confidential Information shall make arrangements with the court reporter

1 taking and transcribing such proceeding to label each page containing the testimony with the
2 designation “CONFIDENTIAL” and all counsel and parties shall treat pages of testimony so
3 designated as a protected document and the testimony itself as Confidential Information.

4 2. If Confidential Information is discussed, disclosed, revealed, or used at a
5 deposition, then only counsel for the parties, the court reporters, the Parties, any translators, the
6 videographers, the witness, and any other Permissible Recipient shall be present for that portion of
7 the deposition. Parties shall endeavor to give reasonable advance notice if they expect a deposition
8 will cover Confidential Information so that the other Parties can ensure only authorized individuals
9 are present when such material is disclosed or used.

10 3. If a deposition witness is not a Permissible Recipient (defined below), then
11 Confidential Information may be discussed with or disclosed to the witness only if (i) doing so is
12 necessary to elicit testimony from the witness that likely would be relevant to a claim or defense in
13 the lawsuit and it is not reasonably possible to elicit such testimony from the witness without
14 showing or informing the witness of the Confidential Information; and (ii) before being shown or
15 informed of any Confidential Information, the witness is given a copy of this Order and executes
16 Exhibit A.

17 a. If a Party believes that showing or disclosing the Party’s Confidential
18 Information to a deposition witness who is not a Permissible Recipient is not necessary to elicit
19 testimony from the witness that likely would be relevant to a claim or defense in the lawsuit (the
20 “Objecting Party”), then the Objecting Party and the Party conducting the deposition (the
21 “Deposing Party”) shall immediately meet and confer regarding the issue and if necessary, attempt
22 to contact the Court for a dispute resolution conference. As a last resort, the Objecting Party may
23 elect to terminate the deposition and file a motion for protective order or seek other relief from the
24 Court to preclude the witness from being shown or informed of Confidential Information. The Court
25 may assess reasonable fees and costs against the terminating party if he finds that the Objecting
26 Party’s objection or termination of the deposition was without justification or in bad faith.

27 b. If a deposition witness refuses to execute Exhibit A, then, before
28 disclosing Confidential Information to or discussing it with the witness, the examiner must seek

1 relief from the Court to compel the witness to execute Exhibit A or for a protective order prohibiting
2 the witness from discussing, disclosing, or using the Confidential Information.

3 **C. Subsequent Designation.** If a party discovers that material or documents containing
4 Confidential Information have been provided to the opposing party without being properly
5 designated under this Protective Order, that party shall promptly notify the receiving party in
6 writing of the same. The notification shall include an identification of the documents or information
7 (by bates stamp number or some other specific form of identification), and the receiving party shall
8 affix a stamp identifying each document or item of information so identified as “CONFIDENTIAL”
9 within ten (10) days unless the parties agree that some other procedure for remedying the
10 inadvertence is more appropriate under the circumstances. A Party’s inadvertent failure to designate
11 Discovery Materials as confidential shall not, on its own, waive the Party’s right to designate the
12 Discovery Materials as confidential in the future.

13 **V. PERMISSIBLE USE OF “CONFIDENTIAL” INFORMATION, DOCUMENTS,**
14 **OR MATERIALS**

15 **A. Limited Use.**

16 1. All parties and persons who review, possess, obtain, or otherwise have
17 access to Discovery Materials or other documents, information, or materials containing
18 “Confidential Information” shall not disclose, reveal or discuss such information to or with any
19 person who is not authorized to receive it, except as set forth herein. All Confidential Information
20 disclosed, produced or exchanged in this case shall be used by the party(ies) or person(s) to whom
21 the information is disclosed solely for the purpose of prosecuting or defending the claims and
22 defenses in this case, through and including appeal(s), if any, and not for any other purpose,
23 including, but not limited to, personal, administrative, business, governmental, commercial,
24 judicial, legal proceedings, or private dispute resolution.

25 2. If a party or any of its representatives, including counsel, discloses any
26 Confidential Information to persons who are not authorized to use or possess such material, the
27 party shall (a) provide immediate written notice of the disclosure to the party whose Confidential
28 Information was disclosed; (b) use its best efforts to retrieve the Confidential Information and all
copies from the unauthorized recipient; (c) inform the unauthorized recipient of the unauthorized

1 disclosure and provide them with a copy of this Protective Order; and (d) use reasonable efforts to
2 have the unauthorized recipient execute Exhibit A. If a party has actual knowledge that Confidential
3 Information is being used or possessed by a person not authorized to use or possess that material,
4 regardless of how the material was disclosed or obtained by such person, the party shall provide
5 immediate written notice of the unauthorized use or possession to the party whose material is being
6 used or possessed. No party shall have an affirmative obligation to inform itself regarding such
7 possible use or possession.

8 3. If any person receiving information covered by this Protective Order is: (a)
9 subpoenaed in another action or proceeding; (b) served with a request or demand in another action
10 to which he, she, or it is a party; or (c) served with any other legal process by one not a party to this
11 action, seeking information designated as “Confidential” pursuant to this Order, the subpoenaed
12 party shall promptly give written notice, by hand or facsimile transmission, within forty-eight (48)
13 hours of receipt of such subpoena, request, demand, or legal process to the party that produced or
14 designated the material as “Confidential.” The subpoenaed party or anyone else subject to this
15 Order shall be under no obligation to take any other action or measures to preserve the
16 confidentiality of any such information in connection with such subpoena, request, demand, or legal
17 process. Nothing herein shall be construed as requiring the subpoenaed party or anyone else covered
18 by this Order to challenge or appeal any order requiring production of Confidential Information, to
19 subject itself to any penalties for non-compliance with any legal process or order, or to seek any
20 relief from the Court.

21 **B. Disclosure of Protected Material.**

22 1. **Confidential Information.** Notwithstanding Section V.A. above, access to
23 documents stamped “Confidential” shall be limited to the following persons (“Permissible
24 Recipients”):

25 a. Counsel: Counsel for the respective parties to this Protective Order,
26 including in-house counsel and counsel’s Support Staff (*i.e.*, paralegals, administrative assistants,
27 and those involved in administration functions), but only to the extent that disclosure to such
28 person(s) is necessary in order for them to assist attorneys in connection with this matter;

1 b. Professional Vendors: Persons or entities, and their employees, that provide
2 litigation support services (e.g., copy services, translation services, document preparation, trial
3 graphics, and tutorials, and organizing, storing or retrieving data), but only to the extent that
4 disclosure to such vendors is necessary in order for them to assist Counsel for a party in connection
5 with this matter, and provided that such vendors have been given a copy of this Protective Order
6 and have manifested their assent to be bound thereby by signing a copy of the agreement attached
7 hereto as Exhibit A before being shown or given any Confidential Information;

8 c. Court Reporters: Court reporters taking testimony and their support
9 personnel, provided that such persons have been given a copy of this Protective Order and have
10 manifested their assent to be bound thereby by signing a copy of the agreement attached hereto as
11 Exhibit A before being shown or given any Confidential Information;

12 d. The Parties: Except as provided below in Section V.C., the parties to this
13 Protective Order, including the officers, directors, agents and employees of a corporate Party, to
14 the extent counsel for such party deems it necessary for the prosecution or defense of this
15 proceeding;

16 e. The Court: The Court and authorized court personnel;

17 f. Testifying Witnesses: witnesses providing testimony in this litigation,
18 provided that that such persons have been given a copy of this Protective Order and have manifested
19 their assent to be bound thereby by signing a copy of the agreement attached hereto as Exhibit A
20 before being shown or given any Confidential Information, and provided further that disclosure is
21 limited to Confidential Information about which the witness is or is likely to be examined at a
22 deposition or other proceeding;

23 g. Consultants and Experts: Independent consultants or experts retained by
24 counsel or a party for assistance with respect to this case, together with each such person's clerical
25 and Support Staff, provided that such persons have been given a copy of this Protective Order and
26 have manifested their assent to be bound thereby by signing a copy of the agreement attached hereto
27 as Exhibit A before being shown or given any Confidential Information;

28 h. Authors or Addressees: The persons who are identified as authors or

1 addressees on the face of a document containing Confidential Information, or have been shown by
2 either testimony or documentary evidence to have been recipients or readers of the Confidential
3 Information prior to the commencement of the underlying lawsuit, provided that such persons have
4 been given a copy of this Protective Order and have manifested their assent to be bound thereby by
5 signing a copy of the agreement attached hereto as Exhibit A before being shown or given any
6 Confidential Information;

7 i. Videographer: The videographer who videotapes Confidential Information
8 at a deposition or hearing in this litigation, provided that such persons have been given a copy of
9 this Protective Order and have manifested their assent to be bound thereby by signing a copy of the
10 agreement attached hereto as Exhibit A before being shown or given any Confidential Information;

11 j. Any other persons agreed to in writing by the designating party; and

12 k. Other persons as may be ordered by the Court.

13 2. For each Permissible Recipient who executes Exhibit A, the Party who provided the
14 Confidential Information to the Permissible Recipient shall retain a copy of Exhibit A executed by
15 the Permissible Recipient and produce to every other party the signed copy of Exhibit A to all other
16 parties not later than seven (7) days after execution by the Permissible Recipient.

17 **C. Filing Confidential Information with the Court or Court.** Confidential
18 Information must be filed under seal or redacted from any briefs, pleadings, or other filings made
19 in court. This Order does not automatically authorize any Party to redact Confidential Information
20 or file it under seal; rather, the filing Party must comply with all applicable rules concerning the
21 sealing and redacting of records, which, if applicable, includes filing a motion to seal and obtaining
22 an order sealing the court filing.

23 **D. Disputes as to Confidentiality Designation.**

24 1. **Meet and Confer Requirement:** The parties agree to designate information
25 as “Confidential” on a good faith basis and not for purposes of obstructing the receiving party’s
26 access to information concerning the lawsuit. If any party believes that a document, tangible item,
27 or other information that has been designated as “Confidential” is not entitled to be treated as such,
28 the party will notify the designating party of its objection to the “Confidential” designation. The

1 the date that the parties executed a settlement agreement or other such document terminating this
2 case with prejudice.

3 **C.** All provisions of this Protective Order restricting the communication or use of
4 Confidential Information shall survive and continue to be binding after the conclusion of this case,
5 and the Court shall retain continuing jurisdiction to enforce, interpret, or modify this Order. The
6 Parties and Permissible Recipients consent to the authority and jurisdiction of the Court, in Clark
7 County, Nevada, presiding over the lawsuit to enforce this Order and adjudicate or remedy any
8 violations.

9 **D.** Nothing herein shall be deemed to waive any applicable privilege or work product
10 protection, or to affect the ability of a party to seek relief for an inadvertent disclosure of material
11 protected by privilege or work product protection. Any witness or other person, firm or entity from
12 which discovery is sought may be informed of and may obtain the protection of this Order by
13 written advice to the parties' respective counsel or by oral advice at the time of any deposition or
14 similar proceeding.

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EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT
TO MAINTAIN CONFIDENTIALITY

I, _____, understand that one of the Parties in this litigation (*Kurt Wong v. Wynn Las Vegas, LLC*, Case No.: 2:20-cv-02086-RJB-NJK) desires to disclose to me certain documents, information, and/or materials that contain or have been designated as “Confidential”. I have read and I understand the Stipulated Protective Order to which this Acknowledgment and Agreement is attached. I understand and acknowledge that the Stipulated Protective Order governs my use of the Confidential Information and I agree to be bound by the terms of the Stipulated Protective Order. I agree that I will not disclose any Confidential Information or other documents, information, and/or materials designated as “Confidential” (including any copies, summaries, extracts or notes of any such information) to any person, agency or entity, except those persons to whom disclosure is permitted under the Stipulated Protective Order. I further agree, consent and submit myself to the jurisdiction of the U.S. District Court, District of Nevada with respect to any proceedings regarding this litigation, including, but not limited to, enforcement of or sanctions in connection with my use of Confidential Information under this Stipulated Protective Order.

Date

Signature

Type or Print Name

Organization (if applicable)

Title (if applicable)