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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

FIREPOWER MARKETING, INC., d/b/a  
ROYALTY REWARDS,

Plaintiff,

v.

RED ROBIN INTERNATIONAL, INC.,

Defendant.

CASE NO. C11-5338BHS

ORDER DENYING MOTION  
FOR STIPULATED PROTECTIVE  
ORDER

This matter comes before the Court on the parties’ motion for entry of a stipulated protective order (Dkt. 32). The Court has considered the motion and proposed order and hereby denies the motion for the reasons stated herein.

**I. DISCUSSION**

This Court’s practice is to decline to enter overly broad stipulated protective orders. The stipulated protective order submitted by the parties in this case is overly broad and, therefore, deficient. *See* Dkt. 32. Due to its deficiency, the Court is denying the stipulated protective order. The Court is, however, amenable to entering stipulated protective orders when they meet certain criteria, as discussed herein.

1 Pursuant to Fed. R. Civ. P. 26(c), protective orders should be issued “for good  
2 cause shown.” This is a public court and its business should be conducted publicly unless  
3 there is a specific reason to keep things confidential. As stated in Local Civil Rule 5(g),  
4 “[t]here is a strong presumption of public access to the court’s files and records which  
5 may be overcome only on a compelling showing that the public’s right of access is  
6 outweighed by the interests of the public and the parties in protecting files, records, or  
7 documents from public review.” On the few occasions when protective orders are  
8 appropriate, they should be narrowly drawn with a presumption in favor of open and  
9 public litigation.

10 The following must be present in a stipulated protective order before the Court is  
11 willing to consider ordering its entry:

12 1. The parties must make a compelling showing that their interest in the  
13 various “confidential materials” described in the proposed order outweighs the public’s  
14 right of access to Court documents.

15 2. The request must be narrow and the terms of the order may not give too  
16 much discretion to the parties to designate documents subject to the protective order.  
17 Any protective order entered by the court must be narrowly drawn and clearly identify  
18 the class or type of documents subject to the order.

19 3. The proposed order may not be modified by agreement of the parties  
20 without the Court’s signature of approval.

21 4. The order cannot grant “complete immunity” from any liability related to  
22 the disclosure of confidential, personal, or proprietary information as long as the

1 disclosure is made pursuant to the terms of the protective order. Whether a particular  
2 disclosure violates federal, state, or local law, breaches contractual obligations, and/or  
3 violates another court's order is not before the Court by virtue of entering a stipulated  
4 protective order. A grant of "immunity" without due consideration of the facts and  
5 circumstances surrounding the disclosure would be improper and unjustified.

6 5. Finally, the order must contain a provision that the Court may change the  
7 terms of the protective order on its own motion after notice to the parties and an  
8 opportunity to be heard.

9 The parties may, of course, enter into a confidentiality agreement without the aid  
10 of the Court amongst themselves. However, when parties request that the Court be  
11 involved, they must make the requisite showing discussed above.

## 12 II. ORDER

13 Therefore, it is hereby **ORDERED** that the parties' motion for entry of a  
14 stipulated protective order (Dkt. 32) is **DENIED**.

15 Dated this 28<sup>th</sup> day of December, 2011.

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BENJAMIN H. SETTLE  
United States District Judge