

DISTRICT COURT, DENVER COUNTY, COLORADO	
Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202	
Plaintiff(s) DAVID S CHEVAL ACTING SECURITIES COMMISS v. Defendant(s) MARK RAY et al.	DATE FILED: March 16, 2020 11:10 PM CASE NUMBER: 2019CV33770 <p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2019CV33770 Division: 209 Courtroom:
ORDER RE: MOTION FOR ENTRY OF STIPULATED PROTECTIVE ORDER	

The motion/proposed order attached hereto: GRANTED WITH AMENDMENTS.

Issue Date: 3/16/2020



KANDACE CECILIA GERDES
District Court Judge

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	
DAVID S. CHEVAL, Acting Securities Commissioner for the State of Colorado, Plaintiff, v. MARK RAY; REVA STACHNIW; CUSTOM CONSULTING & PRODUCT SERVICES, LLC; RM FARM & LIVESTOCK, LLC; MR CATTLE PRODUCTION SERVICES, LLC; SUNSHINE ENTERPRISES; UNIVERSAL HERBS, LLC; DBC LIMITED, LLC, Defendants.	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case No: 19CV33770 Division: 209
MOTION FOR ENTRY OF STIPULATED PROTECTIVE ORDER	

Plaintiff David S. Cheval (“Plaintiff”) and Gary Schwartz in his position as the Court-Appointed Receiver over the assets of the Defendants (“Receiver”), by and through their respective counsel, respectfully move the Court to enter a Protective Order in the form attached pursuant to C.R.C.P. 26(c) and state:

1. Counsel for Receiver has conferred with counsel for Defendants and can state that counsel for Defendants do not oppose the entry of the proposed Protective Order.
2. Throughout this action, the Receiver will seek Protected Material, as that term is defined in the proposed Stipulated Protective Order attached hereto as **Exhibit 1**, from parties and third parties. Protected Material the Receiver may seek includes but is not limited to documents that are not in the public domain and contain confidential financial information, sensitive

proprietary information, and information that any party believes in good faith reflects trade secrets or other proprietary information, or other non-public information. Public disclosure of such Protected Material could result in significant injury to business or privacy interests of one or more of the parties or non-parties.

3. Pursuant to C.R.C.P. 26(c), the Court is authorized to issue a protective order upon a showing of good cause that a trade secret or other confidential commercial information will be misused or disclosed to the public if such an order is not entered. *Direct Sales Tire Co. v. Dist. Court In & For Jefferson Cty.*, 686 P.2d 1316, 1319 (Colo. 1984). The test of whether good cause exists in a particular case is determined by balancing the need to limit disclosure of the confidential information against the need of the opposing party to have access to the information. *Id.*

When analyzing a request for protective orders concerning allegedly confidential commercial information, the court should be guided by the following three-prong analysis. First, the court should determine whether the information requested is a trade secret or other confidential information. Second, the court should ascertain whether the disclosure of such information would cause cognizable harm sufficient to warrant a protective order. Finally, the court should consider whether the party seeking the protective order has shown “good cause” for invoking the court's protection.

See Zenith Radio Corp. v. Matsushita Electric Industrial Co., Ltd., 529 F. Supp. 866 (E.D. Pa. 1981).

4. Here, good cause exists for entry of the Stipulated Protective Order. The Receiver anticipates seeking proprietary and confidential personal and business information, specifically banking information of parties and third parties as well as confidential documents relating to non-party banks’ policies and procedures. Without the protection of a Protective Order, the parties and

non-parties risk public dissemination of confidential financial information and proprietary business information of both parties and non-parties. Based on the foregoing, the parties have shown good cause for a Protective Order in this case.

5. The Receiver and Plaintiff have conferred with each other and with non-party J.P. Morgan Chase Bank, N.A., who is a signatory to the Proposed Stipulated Protective Order, and have approved the form of the proposed Stipulated Protective Order attached here as Exhibit 1. Additionally, counsel for Defendants do not oppose entry of the proposed Stipulated Protective Order. The Plaintiff and Receiver respectfully request that the Court enter the Protective Order for the purposes of preventing the disclosure and use of Protected Material except as set forth in the Order.

6. The relief requested is not for dilatory or other purposes.

WHEREFORE, the parties respectfully request that the Court grant the proposed Stipulated Protective Order as an Order of the Court.

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th Day of March, 2020, a true and correct copy of the foregoing **MOTION FOR ENTRY OF STIPULATED PROTECTIVE ORDER** was electronically filed and served on all parties of record via the Colorado Court E-Filing System.

/s/ Lucas Wiggins
Lucas Wiggins

Attachment to Order - 2019CV33770