IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

GARY SCHWARTZ, Plaintiff, v. **JPMORGAN CHASE BANK, N.A.,** Defendant.	Civil Action No.: 1:21-cv-02449-RM-KLM

JPMORGAN CHASE BANK, N.A.'S UNOPPOSED
MOTION TO RESTRICT ACCESS TO DKT. NO. 39 AS A LEVEL 1 RESTRICTION

Defendant JPMorgan Chase Bank, N.A. ("Chase"), by and through its undersigned counsel, files its Motion for Leave to Restrict Access to Dkt. 39, Chase's Reply in Support of its Partial Motion to Dismiss, as a Level 1 Restriction pursuant to D.C.COLO.L.Civ.R 7.2 (the "Motion"). In support thereof, Chase states as follows:

1. On September 30, 2019, Gary Schwartz ("Schwartz") was appointed as the Receiver of an estate of Mark Ray (individually), Custom Consulting & Product Services, LLC, MR Cattle Production Services, LLC, Universal Herbs, LLC, DBC Limited, LLC, RM Farm & Livestock, LLC, Sunshine Enterprises, as well as all real property, equipment, and inventory at 12700 East Lone Chimney Road, Glencoe, OK 74032 in a Denver County District Court case, case no. 19-CV-33770 (the "Receivership Court"). Order Appointing Receiver, *Cheval v. Ray*, Case No. 19-CV-33770 (September 30, 2019).

2. The Receivership Court entered a stipulated protective order (the "Protective Order") providing for protection from public disclosure for certain categories of documents and

information Chase contemplated producing in response to subpoenas served on Chase. The Protective Order provides that Protected Material filed in court is to be filed and maintained in "suppressed" status, only viewable to the court and parties.

3. In its production in response to the subpoenas, Chase designated certain documents and information as "Protected Material."

4. On August 30, 2021, Schwartz originally filed this action in the District Court of Denver County, Colorado (the "State Court Action"). Schwartz simultaneously filed a Motion to Suppress the Complaint in the State Court Action. The Motion to Suppress states that the Complaint "contains, cites, and refers to Protected Material throughout. Accordingly, it must be filed as 'suppressed' in order to comply with the Protective Order." Dkt. 1-4, Motion to Suppress.

5. On August 31, 2021, the Colorado State Court (the "State Court") "being duly advised in the circumstances" granted Schwartz's Motion to Suppress. Dkt. 1-7, Order re: Motion to Suppress.

6. On September 9, 2021, Chase removed the State Court Action to this Court and filed with its removal papers a slip sheet in lieu of the suppressed State Court Complaint. Dkt. 1-1. Chase filed on September 10, 2021 a restricted copy of the Complaint, docketed as Dkt. 10. On September 22, 2021, the Court granted Chase's motion to restrict Dkt. 10, and this document is currently under restriction at Level 1. *See* Dkt. 16.

7. Additionally, the Court granted motions to restrict Dkt. 23, Chase's Partial Motion to Dismiss the Complaint, and Dkt. 31, Plaintiff's Response to the Motion to Dismiss documents as a Level 1. *See* Dkt. 30 & 38.

8. Dkt. 39 is Chase's Reply in Support of its Partial Motion to Dismiss. This document discusses, analyzes, and quotes from the restricted Complaint (Dkt. 10), the restricted Partial Motion to Dismiss (Dkt. 23), and the restricted Response (Dkt. 31). Chase requests that this Court apply the same restricted visibility as to Dkt. 39 to preserve the confidentiality of the materials already restricted by the State Court and this Court and in order to prevent Chase's violation of the State Court's and this Court's orders. No alternative restriction is available here, as the State Court Order ordered that the Complaint be suppressed in its entirety, and the Complaint is restricted here.

9. Pursuant to D.C.COLO.LCivR 7.1A, Chase has conferred with Plaintiff's counsel regarding the requested relief in this Motion, and Plaintiff does not oppose the relief requested in the instant Motion in light of the Protective Order but Plaintiff reserves his objections as to whether documents referenced in the Complaint are properly marked confidential.

WHEREFORE, Defendant JPMorgan Chase Bank, N.A. respectfully requests that the Court retain Dkt. No. 39 as Level 1 restricted.

Respectfully submitted this 9th day of December 2021.

GREENBERG TRAURIG, LLP

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CERTIFICATE OF SERVICE

I, Naomi G. Beer, an attorney, hereby certify that a true and accurate copy of the foregoing was filed with the Clerk of the Court via the CM/ECF filing system which will send notification to the following on December 9, 2021:

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