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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

R. WAYNE KLEIN, as Receiver,

Plaintiff,

v.

KEYBANK CARD SERVICES, KEYBANK
CARDMEMBER SERVICES, and/or
KEYBANK USA, NATIONAL
ASSOCIATION,

Defendants.

**ORDER GRANTING MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS AND TO EXTEND
DISCOVERY AND DENYING MOTION
FOR PROTECTIVE ORDER FOR BANK
AGREEMENTS**

Civil No. 2:13-CV-00589-DAK

Magistrate Judge Evelyn J. Furse

This matter came before the Court on September 16, 2014 at 9:00 a.m. on Plaintiff R. Wayne Klein's Motion to Compel Production of Documents and to Extend Discovery ("Motion to Compel"), Doc. No. 19, and on the Defendants' Motion for Protective Order for Bank Agreements ("Motion for Protective Order"), Doc. No. 25. David C. Castleberry appeared

telephonically on behalf of the Plaintiff. Heidi Goebel and Joseph Gatton appeared telephonically on behalf of the Defendants.

After considering the papers filed by the parties with respect to the Motion to Compel and the Motion for Protective Order, after considering oral argument by the parties, and for good cause appearing, the Motion to Compel is hereby GRANTED and the Motion for Protective Order is hereby DENIED.

IT IS HEREBY ORDERED that for the reasons contained in Plaintiff's Motion to Compel, the Defendants must produce the Agent Bank Agreements concerning the accounts at issue in this lawsuit between the Defendants and other banks, by September 30, 2014. The Defendants may designate the Agent Bank Agreements as "confidential information - attorney's eyes only," which prohibits counsel for the Receiver from providing any documents designated as "confidential information - attorney's eyes only" to anyone, except for outside counsel to the parties, court officials, any witness who was an author, recipient, or otherwise involved in the creation of such document, or anyone else designated by the Court in the interests of justice (collectively defined as "Qualified Recipients"). All Qualified Recipients shall hold the Agent Bank Agreements received from the disclosing party in confidence, shall use the information only for purposes of this action, and shall not use the Agent Bank Agreements for any business or other commercial purpose. The Agent Bank Agreements that have been designated "confidential information - attorney's eyes only" shall be carefully maintained so as to preclude access by persons who are not qualified to receive these documents under the terms of this Order. The Agent Bank Agreements that are "confidential-attorney's eyes only" and that are filed with the court shall be filed in sealed envelopes and labeled according to DUCivR 5-2.

IT IS FURTHER ORDERED that the Receiver may disagree with the designation of the Agent Bank Agreements as "confidential information - attorney's eyes only". In that case, the Receiver may request the producing party in writing to change the designation, stating the reasons in that request. The producing party shall then have five (5) business days from the date of receipt of the notification to: (1) advise the receiving parties whether or not it persists in such designation; and (2) if it persists in the designation, to explain the reason for the particular designation. If the request to change the designation described above is turned down, or if no response is made within five (5) business days after receipt of notification, any producing party may then move the court for a protective order or any other order to maintain the designation. The burden of proving that the designation is proper shall be upon the producing party. If no such motion is made within five (5) business days, the information will be de-designated to the category requested by the receiving party. In the event objections are made and not resolved informally and a motion is filed, disclosure of information shall not be made until the issue has been resolved by the Court (or to any limited extent upon which the parties may agree). No party shall be obligated to challenge the propriety of any designation when made, and failure to do so shall not preclude a subsequent challenge to the propriety of such designation.

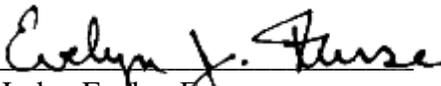
IT IS FURTHER ORDERED that at the conclusion of this action, including through all appeals, each party or other person subject to the terms hereof shall be under an obligation to destroy or return to the producing party the Agent Bank Agreements produced pursuant to this Order, and to certify to the producing party such destruction or return. Such return or destruction shall not relieve said parties or persons from any of the continuing obligations imposed upon them by this Order. After this action, trial counsel for each party may retain one archive copy of

all documents and discovery material received and produced in this case. Trial counsel's archive copy shall remain subject to all obligations of this Order and the prior Protective Order. During and after the termination of this action, the Court will continue to have jurisdiction to enforce this Order.

IT IS FURTHER ORDERED that the parties are permitted to continue to conduct fact discovery until October 30, 2014.

DATED this 1st day of October , 2014.

BY THE COURT:



Judge Evelyn Furse