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CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

JOAO BOCK TRANSACTION SYSTEMS OF CALIFORNIA, LLC,

Plaintiff,

v.

CATHAY BANK, et al.,

Defendants.

JOAO BOCK TRANSACTION SYSTEMS, LLC,

Plaintiff,

v.

BANK OF STOCKTON, et al.,

Defendants.

AND RELATED COUNTERCLAIMS

Case No.: 2:10-cv-07035-DSF-JEM
[LEAD CASE]

Consolidated with

Case No.: 2:11-cv-03526-DSF-JEM

[PROPOSED] PROTECTIVE ORDER

Judge: Hon. Dale S. Fischer

[DISCOVERY DOCUMENT: REFERRED TO MAGISTRATE JUDGE JOHN E. MCDERMOTT]

[NO HEARING REQUIRED]

On January 9, 2013, Plaintiff Joao Bock Transaction Systems, LLC, ("JBTS") and Defendants Pacific Western Bank, Bank Of Stockton, Center Bank, China Trust Bank Usa, Fremont Bank, Hanmi Bank, Nara Bank, The Mechanics Bank, Torrey Pines Bank, Tri Counties Bank, Wilshire State Bank, and Luther Burbank Savings ("Defendants") (collectively, JBTS and Defendants are referred to herein as the "parties"), filed a stipulated protective order.

Having reviewed the stipulation of the parties, the Court hereby GRANTS the stipulated protective order as set forth hereinbelow.

1. GOOD CAUSE STATEMENT

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Specifically, as the accused products relate to banking services, discovery may involve production of security-sensitive information, such as bank software and development documents relating to the security of that software, as well as competitive pricing information. Good cause exists for entry of this Protective Order: (1) bank software and development documents may contain information that compromises the security of such banking services and security of computers used in such banking services if disclosed without entry of a protective order; (2) technical documents, development documents, source code, and confidential internal business documents may contain trade secret or other confidential research, development, or commercial information that would prejudice a Party's or Non-Party's intellectual property or commercial business advantage if disclosed without entry of a protective order; and (3) financial documents may contain competitive pricing information that would prejudice a Party's or Non-Party's commercial business advantage if disclosed without entry of a protective order.

Accordingly, the Parties hereby stipulate to and petition the Court to enter the following Protective Order. The Parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The Parties further acknowledge that Local Civil Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a Party seeks permission from the Court to file material under seal.

2. DEFINITIONS

2.1. Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.2. "CONFIDENTIAL" Information or Items: information (regardless of how it is generated, stored, or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c).

2.3. Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well as their support staff).

2.4. Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE."

2.5. Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including documents, deposition testimony, deposition transcripts, and tangible things, but not including pretrial testimony / transcripts and pretrial hearings), that are produced or generated in disclosures or responses to discovery in this matter.

2.6. Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action, (2) is not a past or

current employee of a Party or of a Party's competitor, and (3) at the time of retention and for the duration of his or her engagement, is not anticipated to become an employee of a Party or of a Party's direct competitor.

2.7. "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" Information or Items: extremely sensitive "CONFIDENTIAL" Information or Items, disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

2.8. "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items: extremely sensitive "CONFIDENTIAL" Information or Items representing or including Source Code and associated comments and revision histories, disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

2.9. House Counsel: attorneys who are employees of a Party to this action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.10. Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.11. Outside Counsel of Record: attorneys who are not employees of a Party to this action but are retained to represent or advise a Party to this action and have appeared in this action on behalf of that Party or are affiliated with a law firm which has appeared on behalf of that Party.

2.12. Party: any Party to this action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.13. Producing Party: a Party or Non-Party that produces Discovery Material in this action.

2.14. Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.15. Protected Material: any Discovery Material that is designated as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE."

2.16. Receiving Party: a Party that receives Discovery Material from a Producing Party.

2.17. Reviewing Party: a Party that reviews Discovery Material provided for inspection by a Producing Party.

2.18. Source Code: Discovery Material that comprises or describes computer instructions and data definitions expressed in a form suitable for input to an assembler, compiler, translator, or other data processing module. Nothing in this Order shall require the parties to produce any Source Code or act as an admission that any particular Source Code is discoverable.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any conversations or presentations by Parties or their Counsel that might reveal Protected Material. However, the protections conferred by this Stipulation and Order do not cover the following information: (a) any information that is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of publication not involving a violation of this Order, including becoming part of the public record through trial or otherwise; (b) any information known to the Receiving Party prior to the disclosure

or obtained by the Receiving Party after the disclosure from a source who obtained the information lawfully and under no obligation of confidentiality to the Designating Party or any other party; and (c) pretrial testimony / transcripts and pretrial hearings. Any use of Protected Material at pretrial hearings or trial shall be governed by a separate agreement or order.

4. DURATION

Even after final disposition of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time limits for filing any motions or applications for extension of time pursuant to applicable law.

5. DESIGNATING PROTECTED MATERIAL

5.1. Exercise of Restraint and Care in Designating Material for Protection. Each Party or Non-Party that designates information, oral or written communications, documents, items, or things for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. To the extent it is practical and not unduly burdensome to do so, the Designating Party must designate for protection only those parts of communications, documents, items, or things that qualify—so that other portions of the communications, documents, items, or things for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or retard the case development

process or to impose unnecessary expenses and burdens on other Parties) expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information, communications, documents, items, or things that it designated for protection do not qualify for protection at all or do not qualify for the level of protection initially asserted, that Designating Party must promptly notify all other Parties that it is withdrawing the mistaken designation.

5.2. Manner and Timing of Designations. Except as otherwise provided in this Order (*see, e.g.*, the second paragraph of Section 5.2(a) and the second paragraph of Section 5.2(b) below), or as otherwise stipulated or ordered, Discovery Material that qualifies for protection under this Order must be clearly so designated before the information, communication, document, item, or thing is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary image form (e.g., paper or electronic documents, but excluding documents produced in native form pursuant to the Parties' agreement regarding electronically stored information, and transcripts of depositions), that the Producing Party affix the legend "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE" to each page that contains Protected Material.

A Party or Non-Party that makes original documents, items, or things available for inspection need not designate them for protection until after the inspecting Party has indicated which document, item, or thing it would like copied and produced. During the inspection and before the designation, all of the documents, items, and things made available for inspection shall be deemed "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY." After the inspecting Party has identified the documents, items, or things it wants copied and

produced, the Producing Party must determine which documents, items, or things or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the appropriate legend ("CONFIDENTIAL," "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE") to each page that contains Protected Material.

(b) for testimony given in deposition, that the Designating Party identifies on the record, before the close of the deposition, all protected testimony and specify the level of protection being asserted. When it is impractical to identify separately each portion of deposition testimony that is entitled to protection and it appears that substantial portions of the deposition testimony may qualify for protection, the Designating Party may invoke on the record (before the deposition is concluded) a right to have up to 21 days to identify the specific portions of the deposition testimony as to which protection is sought and to specify the level of protection being asserted. Only those portions of the deposition testimony that are appropriately designated for protection within the 21 days shall be covered by the provisions of this Protective Order. Alternatively, a Designating Party may specify, at the deposition or up to 21 days afterwards if that period is properly invoked, that the entire deposition transcript shall be treated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY."

Deposition transcripts containing Protected Material shall have an obvious legend on the title page that the deposition transcript contains Protected Material, and the title page shall be followed by a list of all pages (including line numbers as appropriate) that have been designated as Protected Material and the level of protection being asserted by the Designating Party. The Designating Party shall inform the Court reporter of these requirements. Any deposition transcript that is prepared before the expiration of a 21-day period for designation shall be

treated during that period as if it had been designated "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" in its entirety unless otherwise agreed. After the expiration of that period, the deposition transcript shall be treated only as actually designated.

(c) for information produced in some form other than documentary form and for any other tangible items or things, including electronic materials produced in native electronic format, that the Producing Party affix in a prominent place on the exterior of the CD, DVD, hard drive, container in which the information or item is stored, or the item itself, etc., the legend "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE."

5.3. Inadvertent Failures to Designate. A failure to designate qualified information or items or designating qualified information or items at a lower designation than to which they are entitled does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material provided that the Designating Party timely corrects such designation upon learning of the lack of designation or the incorrect designation. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1. Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time so long as the timing of any such challenge comports with the discovery cut-off deadline. A Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2. Meet and Confer and Judicial Intervention. The parties shall comply with the procedures set forth in Civil Local Rule 37 to resolve any dispute

as to a designation of confidentiality and shall comport with the discovery cut-off deadline.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1. Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the litigation has been terminated, a Receiving Party must comply with the provisions of Section 15 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2. Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

(a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information, document, item, or thing for this litigation;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement To Be Bound" (Exhibit A);

(c) Experts (as defined in this Order) of the Receiving Party, as well as employees of said Experts, to whom disclosure is reasonably necessary

for this litigation and who have signed the "Acknowledgment and Agreement To Be Bound" (Exhibit A);

(d) the Court and its personnel;

(e) court reporters and their staff,

(f) professional jury or trial consultants and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement To Be Bound" (Exhibit A);

(g) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the "Acknowledgment and Agreement To Be Bound" (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the Court reporter and may not be disclosed to anyone except as permitted under this Protective Order.

(h) the author or recipient of a document containing the information or a custodian or other person who otherwise knew the information or possessed the document, item, or thing.

7.3. Disclosure of "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" and "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, and subject to the specific provisions set forth in Section 9 ("Source Code") below, a Receiving Party may disclose any information or item designated "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" only to:

(a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is

reasonably necessary to disclose the information, document, item or thing for this litigation;

(b) Experts of the Receiving Party, as well as employees of said Experts, (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the "Acknowledgment and Agreement To Be Bound" (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a), below, have been followed with respect to said Expert;

(c) the Court and its personnel;

(d) court reporters and their staff, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement To Be Bound" (Exhibit A); and

(e) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information, document, item, or thing.

7.4. Procedures for Approving or Objecting to Disclosure of "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items to Experts.

(a) Unless otherwise ordered by the Court or agreed to in writing by the Designating Party, subject to the specific provisions set forth in Section 9 ("Source Code") below, a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that has been designated "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" pursuant to paragraph 7.3(b) first must make a written request to the Designating Party that (1) sets forth the full name of the Expert and the city and state of his or her primary residence, (2) attaches a copy of the Expert's current resume, (3) identifies the Expert's current employer(s), (4) identifies the employment history of that Expert in his or her areas of expertise for

the preceding five years,[1] (5) to the extent not already disclosed, identifies any work by the Expert on behalf of any competitor to the Designating Party at any time during the preceding five years, and (6) identifies (by name and number of the case, filing date, and location of court) any litigation in connection with which the Expert has offered expert testimony, including through a declaration, report, or testimony at a deposition or trial, during the preceding five years.

(b) A Party that makes a request and provides the information, document, item, or thing specified in the preceding respective paragraphs may disclose the subject Protected Material to the identified Expert unless, within 5 business days of delivering the request, the Party receives a written objection from the Designating Party. Any such objection must set forth in detail the grounds on which it is based.

(c) The parties shall comply with the procedures set forth in Civil Local Rule 37 to resolve any dispute as to disclosure of any information or item that has been designated "HIGHLY CONFIDENTIAL – OUTSIDE COUNSELS' EYES ONLY" to an Expert (as defined in this Order) under paragraph 7.3(b) and shall comport with the discovery cut-off deadline.

8. PROSECUTION BAR

Any representative (including without limitation officers, directors, employees, attorneys and experts) of Plaintiffs Joao Bock Transaction Systems of California, LLC, Joao Bock Transaction Systems, LLC, or any subsidiary or affiliate thereof (collectively, "Joao Bock") who receives access to "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" information produced by any Defendant

[1] If the Expert believes any of this information is subject to a confidentiality obligation to a third-party, then the Expert should provide whatever information, document, item, or thing the Expert believes can be disclosed without violating any confidentiality agreements, and the Party seeking to disclose to the Expert shall be available to meet and confer with the designating Party regarding any such engagement.

Producing Party shall not be involved in the prosecution of patents or patent applications relating to Covered Technologies. "Covered Technologies" shall mean computer systems for monitoring and authorizing transactions on financial accounts for purposes of providing account security.

For purposes of this paragraph, "prosecution" includes directly or indirectly drafting, amending, advising, or otherwise affecting the scope or maintenance of patent claims.[2] Nothing in the foregoing, however, shall preclude any individual who receives access to "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" from participating on behalf of a Party from litigating the scope, infringement, validity, or enforceability of any patent in any court or from challenging the validity of an issued patent held by another through reexamination proceedings before the Patent Office. This Prosecution Bar shall begin when access to "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" information is first received by the affected individual and shall end two (2) years after final termination of this action.

9. SOURCE CODE

(a) Nothing in this Order shall be construed as a representation or admission that Source Code is properly discoverable in this action, or to obligate any party to produce any Source Code.

(b) A Producing Party may designate Source Code as "HIGHLY CONFIDENTIAL – SOURCE CODE" if it comprises or includes confidential, proprietary or trade secret Source Code.

(c) Protected Material designated as "HIGHLY CONFIDENTIAL – SOURCE CODE" shall be subject to all of the protections afforded to "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" information,

[2]Prosecution includes, for example, original prosecution, reissue and reexamination proceedings.

including the Prosecution Bar set forth in Paragraph 8, and may be disclosed only to the individuals to whom "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY" information may be disclosed, as set forth in Paragraphs 7.3 and 7.4.

(d) To the extent production of Source Code becomes necessary to the prosecution or defense of the litigation, any Source Code that is produced by a Party shall be made available for inspection in electronic format at the office(s) of the corresponding party's outside counsel of record, or any other location mutually agreed by the parties. Prior to the first inspection of any Source Code, the Receiving Party shall provide thirty (30) days notice of the Source Code that it wishes to inspect. The Receiving Party shall provide ten (10) days notice prior to any additional inspections.

(e) Source Code designated as "HIGHLY CONFIDENTIAL – SOURCE CODE" shall only be produced for inspection and review subject to the following provisions, unless otherwise agreed by the Producing Party:

(e)(1) All Source Code shall be made available by the Producing Party to the Receiving Party's outside counsel of record in this action and/or experts in a secure room on a secured computer without Internet access or network access to other computers, as necessary and appropriate to prevent and protect against any unauthorized copying, transmission, removal or other transfer of any Source Code outside or away from the computer on which the Source Code is provided for inspection (the "Source Code Computer"). The Producing Party shall install tools that are sufficient for viewing and searching the code produced, on the platform produced, if such tools exist and are presently used in the ordinary course of the Producing Party's business. The Receiving Party's outside counsel and/or experts may request that other mutually agreeable commercially available software tools for viewing and

searching Source Code be installed on the secured computer, provided, however, that such other software tools are reasonably necessary for the Receiving Party to perform its review of the Source Code consistent with all of the protections herein. The Receiving Party must provide the Producing Party with the CD or DVD containing such licensed software tool(s) at least ten (10) days in advance of the date upon which the Receiving Party wishes to have the additional software tools available for use on the Source Code Computer.

(e)(2) No recording devices or recordable media will be permitted inside the Source Code review room. The Receiving Party's outside counsel and/or experts shall be entitled to take notes relating to the Source Code but may not copy the Source Code into the notes and may not take such notes electronically on the Source Code Computer itself or any computer that is connected to any network. No copies of all or any portion of the Source Code may leave the room in which the Source Code is inspected except as otherwise provided herein. Further, no other written or electronic record of the Source Code is permitted except as otherwise provided herein. The Producing Party, including the Producing Party's outside counsel and their staff, may visually monitor the activities of the Receiving Party's representatives during any Source Code review, but only to ensure that no unauthorized electronic records of Source Code are being created or transmitted in any way.

(e)(3) The Producing Party shall make available a laser printer with commercially reasonable printing speeds for on-site printing during inspection of limited portions of the Source Code. The Receiving Party may print limited portions of the Source Code only when reasonably necessary to facilitate the Receiving Party's preparation of

court filings, expert reports, and related drafts and correspondences, and shall print only such portions as are relevant to the claims and defenses in the case and are reasonably necessary for such purpose. The Receiving Party shall not print Source Code in order to review blocks of Source Code elsewhere in the first instance, i.e., as an alternative to reviewing that Source Code electronically on the Source Code Computer, as the parties acknowledge and agree that the purpose of the protections herein would be frustrated by printing portions of code for review and analysis elsewhere, and that printing is permitted solely to enable use of Source Code in filings and proceedings. Upon printing any such portions of Source Code, the printed pages shall be collected by the Producing Party for subsequent production. The Producing Party shall Bates number, copy, and label "HIGHLY CONFIDENTIAL – SOURCE CODE" any pages printed by the Receiving Party and shall produce the printed Source Code within ten (10) business days from the day the Source Code was printed by the Receiving Party. No more than 10% or 500 pages of the total Source Code, whichever is lesser, may be in printed form at any one time. In the event any single portion of the Source Code printed by the Receiving Party comprises more than 40 continuous pages or represents 10% or more of a specific software release, that printout shall be presumed excessive and not done for a permitted purpose. The parties shall comply with the procedures set forth in Civil Local Rule 37 to resolve any dispute as to whether the printed portions are excessive and/or not reasonably necessary to any case preparation activity. In the absence of any objection, or upon resolution of any such dispute by the Court, the Producing Party shall provide one copy set of such pages to the Receiving Party within ten (10) days. The printed pages shall constitute part of the Source Code produced by the Producing Party in this action. The

Receiving Party receiving the paper copies of Source Code must keep that Source Code in a secured container when not in use at the office of the Receiving Party's outside counsel of record.

(e)(4) All persons who will review a Producing Party's Source Code on behalf of a Receiving Party shall be identified in writing to the Producing Party at least five (5) days in advance of the first time that such person reviews such Source Code. Such identification shall be in addition to any disclosure required under the "Notice" section of this Order. Each day they view Source Code, all persons viewing Source Code shall sign on a log that will include the names of persons who enter the review room and when they enter and depart. The Receiving Party receiving paper copies of Source Code shall maintain a log of Bates numbered pages received and persons who have had access to those pages. The Producing Party shall be entitled to a copy of the logs upon request.

(e)(5) Unless otherwise agreed in advance by the parties in writing, following each day on which inspection is done under this Order, the Receiving Party's outside counsel and/or experts shall remove all notes, documents, laptops, and all other materials from the room that may contain work product and/or attorney-client privileged information. The Producing Party shall not be responsible for any items left in the room following each inspection session, and the Receiving Party shall have no expectation of confidentiality for any items left in the room following each inspection session without a prior agreement to that effect.

(e)(6) Other than as provided in subparagraph (e)(3) above, the Receiving Party will not copy, remove, or otherwise transfer any Source Code from the Source Code Computer including,

without limitation, copying, removing, or transferring the Source Code onto any other computers, peripheral equipment, memory, or drives of any kind. The Receiving Party will not transmit any Source Code in any way from the Producing Party's facilities or the offices of its Counsel.

(e)(7) After receiving any production of printed Source Code, the Receiving Party may make no more than five (5) copies of any portions of the Source Code received from a Producing Party pursuant to subparagraph (c), not including copies attached to court filings or used at depositions, and shall maintain a log of all copies of the Source Code received from a Producing Party that are delivered by the Receiving Party to any qualified person under the "HIGHLY CONFIDENTIAL – SOURCE CODE" section above. Any such copies must be in paper and not maintained in electronic form. The log shall include the names of the reviewers and/or recipients of paper copies and locations where the paper copies are stored.

(e)(8) The Receiving Party's Counsel and any authorized person receiving a copy of any Source Code shall maintain and store the paper copies of the Source Code at their offices in a manner that prevents duplication of or unauthorized access to the Source Code, including, without limitation, storing the Source Code in a locked room or cabinet at all times when it is not in use.

(e)(9) All paper copies of Source Code shall be securely destroyed in a timely manner if they are no longer in use (e.g., at the conclusion of a deposition). Copies of Source Code that are marked as deposition exhibits shall not be provided to the Court Reporter or attached to deposition transcripts; rather, the deposition record will identify the exhibit by its production numbers.

(e)(10) Except as provided in this subparagraph, absent express written permission from the Designating Party, the Receiving Party may not create electronic images, or any other images, or make electronic copies, of the Source Code from any paper copy of Source Code for use in any manner (including by way of example only, the Receiving Party may not scan the Source Code to a PDF or photograph the code). Images or copies of Source Code shall not be included in correspondence between the parties (references to production numbers shall be used instead), and shall be omitted from pleadings and other papers whenever possible. If a party reasonably believes that it needs to submit a portion of Source Code as part of a filing with the Court, the parties shall meet and confer as to how to make such a filing while protecting the confidentiality of the Source Code and such filing will not be made absent agreement from the Designating Party that the confidentiality protections will be adequate. If a Designating Party agrees to produce an electronic copy of all or any portion of its Source Code or provide written permission to the Receiving Party that an electronic or any other copy needs to be made for a Court filing, the Receiving Party's communication and/or disclosure of electronic files or other materials containing any portion of Source Code (paper or electronic) shall at all times be limited to solely individuals who are expressly authorized to view Source Code under the provisions of this Protective Order. In cases where the Designating Party has provided the express written permission required under this provision for a Receiving Party to create electronic copies of Source Code, the Receiving Party shall maintain a log of all such electronic copies of any portion of Source Code in its possession or in the possession of its retained consultants, including the names of the reviewers and/or recipients of any such electronic copies, and the

locations where the electronic copies are stored. Additionally, any such electronic copies must be labeled "HIGHLY CONFIDENTIAL – SOURCE CODE" as provided for in this Order.

10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION.

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE," that Party must:

(a) notify in writing, within three business days, the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) notify in writing, within three business days, the Party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.[3]

The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material—and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

11. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information, documents, items, and things produced by a Non-Party in this action and designated

[3]The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the Court from which the subpoena or order issued.

as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL'S EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE." Such information, documents, items, and things produced by Non-Parties in connection with this litigation is protected by the requirements, remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

1. promptly notify in writing the Requesting Party and the Non-Party that some or all of the information, documents, items, or things requested is subject to a confidentiality agreement with a Non-Party;

2. promptly provide the Non-Party with a copy of the Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information, documents, items, or things requested; and

3. make the information, documents, items, or things requested available for inspection by the Non-Party.

12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) if required by this order based on the confidentiality of the

material disclosed, request such person or persons to execute the "Acknowledgment and Agreement To Be Bound" that is attached hereto as Exhibit A.

13. PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

13.1. Any inadvertent production of materials subject to the work product doctrine, the attorney-client privilege, joint defense privilege, common legal interest privilege, the right of privacy, or any other applicable privilege or protection, shall not constitute a waiver of the privilege or protection, provided that the Designating Party shall notify the Receiving Party in writing of such privilege or protection promptly after the Designating Party discovers such materials have been produced. For the avoidance of doubt, production of materials without first conducting a reasonable review of such materials shall not constitute an "inadvertent" production. After notification is received, the Receiving Party shall within 5 business days return to the Designating Party all copies of such documents or destroy them, and shall within 5 business days of notification confirm in writing that all such copies have been returned or destroyed.

13.2. Nothing herein shall prevent the Receiving Party from challenging the propriety of the privilege or protection claimed by promptly filing an appropriate motion with the Court, but the Receiving Party shall not challenge the propriety of the privilege or protection claimed on the grounds that the privilege or protection was waived by production of the materials or information. The parties shall comply with the procedures set forth in Civil Local Rule 37 to resolve any dispute as to claims of privilege and shall comport with the discovery cut-off deadline.

14. MISCELLANEOUS

14.1. Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

14.2. Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Protective Order. Similarly, no Party waives any right to object on any ground to the admissibility or use in evidence of any of the material covered by this Protective Order.

14.3. Export Control. Disclosure of Protected Material shall be subject to all applicable laws and regulations relating to the export of technical data contained in such Protected Material, including the release of such technical data to foreign persons or nationals in the United States or elsewhere. The Producing Party shall be responsible for identifying any such controlled technical data, and the Receiving Party shall take measures necessary to ensure compliance.

14.4. Filing Protected Material. A Party that seeks to file under seal any Protected Material shall comply with Local Civil Rule 79-5.

14.5. Discovery From Experts. Consistent with Federal Rules of Civil Procedure 26(b)(3)(A) and (B), testifying Experts or consultants shall not be subject to discovery of any draft report in this case or other cases and such draft reports, notes or outlines for draft reports are also exempt from discovery. No discovery can be taken from any Expert or consultant who is not designated under Federal Rules of Civil Procedure 26(a)(2) and does not testify except to the extent that Expert or consultant has provided information, opinions or other materials to a testifying expert, who then relies upon such information, opinions or other materials in forming his or her final report, trial or deposition testimony or any final opinion offered or to be offered in this case. No conversations or communications between Counsel and any Expert or consultant will be subject to discovery unless the conversations or communications are relied upon by such expert or consultant in formulating opinions that are presented in reports or trial or deposition testimony in this case. Materials, communications and other information exempt from

discovery under this Paragraph shall be treated as attorney-work product for the purposes of this litigation and Protective Order.

15. FINAL DISPOSITION

Within 60 days after the final disposition of this action, as defined in paragraph 4, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

IT IS SO ORDERED.

Date: 1/11/2013

John E. McDermott
Hon. John E. McDermott
United States Magistrate Judge

EXHIBIT A: ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Protective Order that was issued by the United States District Court for the Central District of California on _____ [date] in the case of *Joao Bock Transaction Systems of California, LLC v. Cathay Bank et al.*, Case No.: 2:10-cv-07035-DSF (JEMx) and *Joao Bock Transaction Systems, LLC v. Bank of Stockton et al.*, Case No. 2:11-cv-03526-DSF (JEMx). I agree to comply with and to be bound by all the terms of this Protective Order, and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of _____ _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

[printed name]

Signature: _____

[signature]