09-20965.o3

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case Number: 09-20965-CIV-MARTINEZ/BROWN

IMX, INC., d/b/a GLOBAL NETOPTEX, INC.,

Plaintiff,

vs.

E-LOAN, INC. and BANCO POPULAR NORTH AMERICA, INC.,

Defendants.
_____/

**ORDER RE: MOTION FOR PROTECTIVE ORDER**

**This matter** is before this Court on IMX...'s Motion for Protective Order...(D.E. 86), filed November 13, 2009. The Court has considered the motion, the response (D.E. 111) (with the unnecessary cross-motion), the reply, and all pertinent materials in the file.

This court is ordinarily very reluctant to sanction the taking of the depositions of trial counsel. However, in view of the proposal in the reply, it would serve no purpose to recite the law supporting this position as it does not appear, at least in the short run, to be necessary. Plaintiff has offered to produce one of the attorneys sought for deposition. Clearly for the purpose for which these depositions are sought, producing two would give rise to at least some, duplication.

The Court will reject, in advance, any argument that both need to be deposed to test their consistency. The Court also finds lacking any support that there are no other means of obtaining the

information sought. Finally, the Court agrees with plaintiff that the preparation of charts does not give rise to the need for a deposition. One simple written question could have been asked of plaintiff - "please list all sources of the information contained in the chart(s)". The charts themselves are not evidence.

Therefore, and the Court being otherwise fully advised in the premises, it is hereby **ORDERED AND ADJUDGED** as follows:

1. The motion for protective order is **GRANTED** in part. It is granted as to the deposition of Mr. Goldman.

2. The motion is **DENIED**, in all other respects. As it regards any allegedly privileged materials or questions, they should be handled on a question-by- question basis. Improper questioning and/or improper objections may result in the imposition of sanctions.

3. The cross-motion to compel is **DENIED**, as moot.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 23rd day of December, 2009.

STEPHEN T. BROWN
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: Honorable Jose E. Martinez
Counsel of record