

Exhibit I

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

Estate of James Brown and The James Brown
2000 Irrevocable Trust,

Defendants.

IN THE CIRCUIT COURT

Civil Action No. 2013-CP-02-1337

**ORDER GRANTING MOTION TO
CONFIRM ROGER MILLER
CONFIDENTIALITY DESIGNATIONS**

Before the Court is the Estate of James Brown and The James Brown 2000 Irrevocable Trust's ("Defendants") Motion to Confirm Confidentiality Designations. The confidentiality designations at issue relate to various exhibits introduced at the deposition of Roger Miller and certain questioning and testimony elicited during the deposition (the Miller Deposition Confidential Designations). The Miller Deposition Confidential Designations relate to the copyrights that generate the majority of the revenue for the Estate of James Brown. For the reasons discussed herein, the Court grants Defendants request to Court confirm all confidential designations.¹

I. BACKGROUND AND OPERATION OF THE ORDER

On August 30, 2016, this Court signed a Confidentiality Order for this case (the "Order"). Under the terms of the Order, "[a]ny party may designate documents as confidential, . . . after review of the documents by an attorney who has, in good faith, determined that the documents

¹ The Court notes that Defendant withdrew two designations after further consultation with Plaintiff at the hearing held on May 24, 2017 at the Aiken County Courthouse. Those designations are: Miller Deposition, p. 30, ln. 9-13; p. 46, ln. 19-24.

contain . . . sensitive personal information, trade secrets, . . . or business/commercial information that justifies protection from disclosure.” (Order, ¶3).

Under the terms of the Order, a party may challenge a confidential designation. (Order, ¶8). “A party who contends that documents designated confidential are not entitled to confidential treatment shall give written notice to the party who affixed the designation” (*Id.* at ¶8(b)). Once the party that designated the document as confidential receives the challenge, it has fifteen days to attempt to resolve the dispute. If it cannot resolve the dispute, then the party that designated the document must “move for an Order confirming the confidential designation.” (*Id.*)

II. PLAINTIFF’S CHALLENGE TO THE DESIGNATIONS

On April 7, 2017, Plaintiff sent e-mail correspondence challenging Defendants’ Miller Deposition Confidential Designations. Defendants subsequently sought to resolve the challenge. The parties were unable to resolve this issue.

III. CONFIDENTIAL DESIGNATIONS FROM ROGER MILLER’S DEPOSITION

Roger Miller provided expert testimony related to the value of certain termination rights for certain copyrights owned by Defendants. Mr. Miller based his valuation testimony upon excerpts from the Philpott Ball and Werner valuation (the appraisal). Mr. Miller also generated various exhibits demonstrating his valuation analysis by employing the information found in the appraisal.

A. This Court Previously Held the Appraisal is Confidential

In this Court’s Administrative Order dated August 30, 2016, it noted “that the appraisal shall remain confidential,” that Plaintiff is entitled to a copy of the appraisal, but “she must keep it confidential and not disseminate the document to anyone outside of this litigation.” (Administrative Order, pp. 4-5). Accordingly, this Court’s prior ruling forecloses Plaintiffs efforts to challenge the Miller Deposition Confidential Designations.

B. The Appraisal and the Underlying Documents Contain Confidential Financial and Commercial Information

The appraisal is a private document that is owned and controlled by the Estate. The appraisal was created for the purpose of valuing the Estate of James Brown (a private citizen), and for the purpose of determining whether the Estate owed any taxes to the federal government.² The appraisal is not a public document. It contains confidential financial and commercial information, and has been treated as confidential since its inception. For decades, courts across this Nation have recognized that these types of business documents are confidential and should be accorded the shield of a protective order. *See, e.g., Landco Equity Partners, LLC, v. City of Colo. Springs, Colo.*, 259 F.R.D. 510, 515 (D. Colo. 2009) (recognizing that “protective orders issued pursuant to Rule 26(c) are common in litigation to protect sensitive information exchanged during the course of discovery, particularly when the documents reflect confidential financial information”); *Nutrtech, Inc. v. Syntech (SSPF) Int’l*, 242 F.R.D. 552, 554 (C.D. Cal. 2007) (noting that **both parties agreed** to the need for a protective order but disagreed whether the information (“sales and revenue figures”) should be afforded protection of “attorney’s eyes only”); *Palmer v. Reader’s Digest Assoc.*, 122 F.R.D. 445, 447 (S.D.N.Y. 1988) (recognizing the confidential nature of a company’s financial information and the requirement that its production requires “strict non-disclosure provisions”). Accordingly, Defendants have met their burden. The Miller Deposition Confidential Designations are confidential and shall remain as such under the Order.

C. Irreparable Harm Will Result if the Miller Deposition Confidential Designations Become Public

The Miller Deposition Confidential Designations analyze copyright royalty details and sources of royalty payments, among other confidential business information. That information is

² The Internal Revenue Service independently reviewed the appraisal and agreed with its findings regarding the date of death valuation for the James Brown Estate.

highly confidential because it completely exposes the strengths and the weaknesses of the music catalog. If made public, that information will likely be used against the Estate and Trust during future business negotiations. Moreover, dissemination of this confidential information could damage James Brown's vision of providing charitable scholarships to deserving and needy students by decreasing the amount of funds available for those scholarships.

Courts have defined confidential commercial information as "information which, if disclosed, would cause substantial economic harm to the competitive position of the entity from whom the information was obtained." *Diamond State Ins. Co. v. Rebel Oil Co.*, 157 F.R.D. 691, 697 (D. Nev. 1994); *Massey Coal Services, Inc. v. Victaulic Co. of Am.*, 249 F.R.D. 477, 482 (S.D.W. Va. 2008) (same). Defendants' have met their burden; the appraisal and all underlying documents are confidential.

IV. CONCLUSION

Defendants have met their burden to show that the Miller Deposition Confidential Designations are, in fact, confidential and should maintain that designation under the Order. Accordingly, this Court hereby finds that the confidential designations shall remain confidential pursuant to this Court's August 30, 2016 Confidentiality Order.

IT IS SO ORDERED.

The Honorable Doyet A. Early, III

June ____, 2017

_____, South Carolina



Aiken Common Pleas

Case Caption: Adele Jeffords Pope VS James Estate Of Brown , defendant, et al

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So Ordered

s/D.A. Early III 2136

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