

Hopper is aware.<sup>6</sup> What she has been legitimately concerned about and requested protection from, is any possible dissemination of this sensitive financial data, which is of an extremely private nature, willy-nilly, to third parties. None of the data encompassed by these documents – neither the first batch of documents (Bates stamped no. 1-4427) nor the second batch (Bates Nos. 4428-5249 – less the Withheld Non-Estate Documents) – are “public data” or “public documents” in any reasonable sense of that term.<sup>7</sup>

The Bank is Mrs. Hopper’s fiduciary and she expects and relies upon the Bank to protect and preserve her primary interests in her property and its privacy. As of the date of filing of the Complaint, Mrs. Hopper had proposed (thirteen days before this Complaint’s filing) a form of protective order. Neither the Bank nor counsel for the other two heirs (the children) ever bothered to respond with a single comment on that draft – before the Complaint was filed. A true copy of that draft is Exhibit “A” hereto. The Court should note that despite the Dallas Courts’ Local Rules, there is no certificate of conference on the Complaint regarding any good faith effort to work out these issues. Additionally, objection is made herein, that the required sworn “Verification” attached and signed by Susan H. Novak as the Administrator’s “Senior Estate Officer” is improper on its face (e.g., at first it appears to state that the facts stated in the Complaint are true and correct but goes on to add “. . . *that to the extent such facts are not based on her personal knowledge, that she is informed and believes such facts are true and correct*” – and does not bother to advise which alleged “facts” are which). Of course this kind of

---

<sup>6</sup> The Estate’s value is “north” of approximately \$10,000,000.00.

<sup>7</sup> There may be some scattered sheets in the Williamson Production regarding certain corporations and the like that are mixed in, but mostly all the papers are Mrs. Hopper’s accountants’ work product, tax papers and are confidential “in toto”.

“averment” means essentially nothing at all, guts the whole concept of a “sworn” complaint, and does not contain nor amount to a true “Verification” for the Complaint to be sworn to as required by TPC §75.

As to certain approximately 9 documents (out of nearly 5250) that Ms. Williamson has not produced (about 53 pages) – the Withheld Non-Estate Documents – the Complaint also takes the unsupported and unorthodox position that Ms. Williamson must log all documents in her possession that are the post-death personal property of Mrs. Hopper – and not papers belonging to the Estate. This is absurd. The Texas Rules of Civil Procedure do not require such a log. To do so would be a waste of time and money. Does the Administrator want to log all documents in its possession that it thinks assets are not papers of the Estate – but which Mrs. Hopper might be inclined to review as a beneficiary? Surely not; and neither should Ms. Williamson be so ordered.

As will be set out below, what is additionally bizarre about this request underlying the Complaint is, that so far as Mrs. Hopper can tell, these documents have no particular value to the Estate whatsoever and further review (much less physical possession) of them is a waste of time and the resources of the Estate.

Again, the Administrator’s Complaint would lead one to assume access to these Williamson Documents had been previously denied it. *Nothing could be further from the truth.* The documents were copied and Ms. Williamson’s legal counsel (with Mrs. Hopper’s encouragement) invited the Bank as Administrator and the children to come and review all of the documents. It took days before the Bank bothered to show up and review the documents. The

children, after more than two months, finally reviewed the documents last week, September 30<sup>th</sup>. The Bank sent two different representatives, a lawyer and a paralegal, who spent over a day collectively in review of these Williamson Documents. They admitted to counsel for Ms. Williamson that the documents contain nothing of interest or substance as to the Estate and its administration.

The Complaint as filed was premature, unreasonable, not filed in accordance with the Rules, and should be denied. Now it is moot as well. When the Administrator claimed that “the parties have not been able to reach an agreement on an [protective] order”, the Bank’s counsel had not then, at that time, so much as called back or made a single suggestion in response to a draft protective order sent them by Mr. Hopper’s counsel two weeks prior to the Complaint being filed. That was and is not an appropriate or good faith level of effort.<sup>8</sup> TPC §75 does not give an Administrator *carte blanche* to seize, without restrictions as to dissemination, highly private and personal financial data/papers in which the Estate merely has co-ownership and not sole ownership – especially post-death papers. Ms. Williamson has certainly not played keep-away with the Bank as to any records or information as far as Mrs. Hopper can observe. Indeed Mrs. Hopper would be upset if Ms. Williamson had, as she has every interest in the effective administration of the Estate. For the reasons set forth below, Mrs. Hopper requests the Complaint be denied and in the alternative, and the Court enter the most recent proposed Order to which the parties have agreed to on all substantive terms (a copy of which is attached as

---

<sup>8</sup> Now at the 11<sup>th</sup> hour, the Bank has finally started to try and work out these very issues.

Exhibit "B") so the Administrator can get on with doing whatever it wants, even if to no purpose and as a great waste of resources of the Estate.

### FACTUAL BACKGROUND

#### I.

In addition to the Complaint set forth above, on Tuesday, October 4<sup>th</sup>, Stephen Hopper and Laura Wassmer, Decedent's children (the "children"), filed their *Stephen Hopper's and Laura Wassmer's Response to the Independent Executor's Complaint to Compel Delivery of Papers Belonging to the Estate of Max D. Hopper* ("Children's Response"). The children apparently take the view that under the draft protective order attached to the Complaint, the children are too restricted in their right to use the papers of the Estate.

#### II.

The children have filed no motion or complaint of any kind under the TPC but merely filed their Children's Response to the Bank's Complaint.

#### III.

The Children's Response wholly fails to apprise the Court of the true situation as of the time it was filed (October 4<sup>th</sup>). The parties in this case including the Bank, the children and Mrs. Hopper have been working for several days on coming up with an appropriate, agreed protective order. Those conversations and exchange of drafts were still being exchanged as of the early afternoon of October 4<sup>th</sup>. Suddenly without warning, and with no explanation, the Children's Response was filed. The Children's Response was in direct contravention to the position that had been taken over the last several days by the children themselves through counsel. In

addition, the children, although they had filed no motion nor properly served anyone with a motion or complaint, and with no prior notice to Ms. Williamson, have asked for the Court to order certain relief against Ms. Williamson as well, including an award as to the children of their attorneys' fees and costs. Of course, no legal citation is provided for this request, as no such attorneys' fees or costs are available to them under the TPC with no complaint or even a motion on file. The request should be denied as improvidently filed.

#### IV.

From the onset, both the Bank and the children have incorrectly and unfairly accused Ms. Williamson of some form of wrongdoing or dilatory behavior in regard to the Williamson Production. In fact, the standard under TPC, Section 75, is not the same standard as to general document discovery under the Texas Rules of Civil Procedure ("TRCP"). The standard is quite different. The TPC requires only that *papers belonging to the Estate* be turned over to the administration of the Independent Administrator (here the Bank). **In fact, that has already been done and the Complaint and the Children's Response are both moot and this hearing a waste of resources.** Nearly three weeks ago (September 15, 2011), the Bank took possession of these very records. The Bank took possession of them under an Agreement (Exhibit "C" hereto). Mrs. Max D. Hopper asserts that there is no need for any further consideration of this matter by the Court and that neither the Bank nor the children have any real controversy worthy of the Court's attention. The fact is that the Administrator/Bank has already derived whatever value it could derive from the Williamson Production. Additionally, not only the Bank but also the children have been free for weeks to review the documents in the offices of Ms. Williamson's

counsel (Mr. David Taylor) to their hearts' content. These "small details" are missing entirely from the recitations in both the Complaint and the Children's Response – but they are in fact critical to any proper, thorough analysis of them.

V.

Mrs. Hopper has, as even the Bank has recognized via the draft Protective Order it itself has submitted for the Court's review as part of the Complaint, a compelling and protectable interest in these papers (the Williamson Documents) and the Withheld Non-Estate Documents, which should not be turned over to the Bank, for at least the following reasons:

- a. The Estate is not the sole owner of these papers/documents. They are jointly owned by Mrs. Hopper and the Estate.
- b. Contrary to assertions by the Bank previously, the Bank is not, nor is the Estate, an actual client of Ms. Williamson's. The only fees that the Bank has paid Ms. Williamson are in connection with the Estate's pro rata share of certain items of tax work and filings Ms. Williamson has done on behalf of and at the direction Mrs. Hopper and which the Bank has paid only part of the relatively tiny cost. The Bank has no direct Bank/accountant relationship.
- c. The Bank has already agreed and ordered as Administrator that Mrs. Hopper has a protectable interest in these documents – as per the very fact of its version of the proposed Protective Order attached to the Complaint.

- d. Since the time of that draft Protective Order, and as a result of negotiations between the parties through October 4<sup>th</sup> (including the children being involved), the parties had agreed in principal on the new form of Protective Order attached as Exhibit "B" hereto (which version of the Protective Order Mrs. Hopper now prays be entered in connection herewith to protect the papers the Bank has in its current possession).
- e. In fact the only documents that are in any controversy at this point are the other, Withheld Non-Estate Documents (53 pages) that were not, and are not according to Mrs. Williamson and her counsel, papers belonging to the Estate. As such, not being papers of the Estate, these documents were not subject and are not subject to TPC §75 at all or this Court's order under §75. A separate agreement regarding review of those documents had also been entered into by all the parties (with the exception of counsel for the Children). A true copy of that Agreement is attached as Exhibit "D" hereto. Counsel for the Bank, Ms. Williamson and Mrs. Hopper have all agreed on that approach. Again, the children are not parties to the Complaint and thus in fact have no standing to argue against such an Agreement. The consent of the children as to this Agreement (Exhibit "D") had nonetheless been sought inasmuch as it made sense to avoid controversy from the parties – but as usual the children have been more interested in impeding progress rather than making progress.

- f. Mrs. Hopper also notes and objects that the Complaint before the Court is not properly verified because it is required to be properly sworn as true and correct and in fact it is a highly “qualified” verification and is thus not proper. The Complaint being thus unsworn, is not proper in its present form for any hearing or action by this Honorable Court.
- g. Mrs. Hopper invokes her accountant/client privilege and requests the Court to enter such orders protecting her privacy and the confidentiality of the Williamson Documents as is appropriate in the premises. Mrs. Hopper stands on her rights pursuant to the TEX. OCC. CODE §901.457.
- h. The Bank’s position if upheld by the Court as to the Withheld Non-Estate Documents, would be improper in the extreme. Ms. Hopper has an ongoing relationship with Ms. Williamson, as her current accountant. Every document created after Decedent’s death that has the word “Hopper” on it or in some way references any property that was once within the Hopper Estate or was owned pre-death by the Hoppers as community property is not *ipso facto* a “paper belonging to the Estate”. Under the Bank’s theory, the Bank could come in every thirty days (or some other period) and simply ask for the latest “Hopper papers” – even without those papers ever having belonged to the Estate or being created at any time Mr. Hopper was alive. Those post-death papers, whether or not “arguably relevant” under a discovery standard to the Estate or its



administration under the TRCP are not *ipso facto* papers belonging to the Estate. They can and should be, if desired by the Bank or any other party who has standing be sought subject to the normal procedures regarding discovery and may not be collected in some monthly "sweep" of Ms. Williamson's office anytime the Bank feels like sending out a letter from now until the end of the administration.

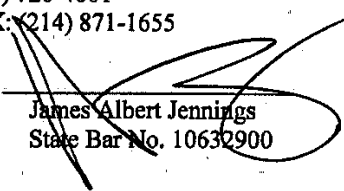
VI.

The Complaint as filed was both in improper form and not properly sworn – to which objection has been made herein. Additionally since the time of filing, events transpiring between the parties have made the Complaint moot. Alternatively, the form of Protective Order attached as Exhibit "C" should be entered by the Court, the Bank's request in regard to the Withheld Non-Estate Documents be denied as being not papers of the Estate, and for such other and further relief to which Mrs. Hopper show herself justly entitled as an interested person in the Estate.

WHEREFORE, PREMISES CONSIDERED, Mrs. Jo N. Hopper, prays that upon hearing of the Complaint, that the Complaint be dismissed as both improperly filed and moot, all as set out above; alternatively, the form of Protective Order attached as Exhibit "C" should be entered by the Court, the Bank's request in regard to Withheld Non-Estate Documents be deemed as they are not papers belonging to the Estate, and for such other and further relief to which Mrs. Hopper show herself justly entitled as an interested person in the Estate.

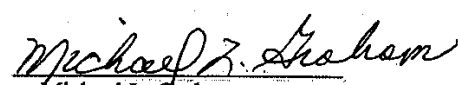
Respectfully submitted,

ERHARD & JENNINGS, P.C.  
1601 Elm Street, Suite 4242  
Dallas, Texas 75201  
(214) 720-4001  
FAX: (214) 871-1655

By:   
James Albert Jennings  
State Bar No. 10632900

and -

THE GRAHAM LAW FIRM, P.C.  
100 Highland Park Village, Suite 200  
Dallas, Texas 75205  
(214) 599-7000  
FAX: (214) 599-7010

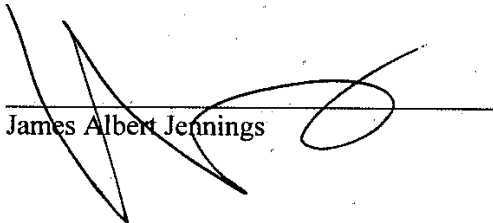
By:   
Michael L. Graham  
State Bar No. 08267500  
Janet P. Strong  
State Bar No. 19415020

ATTORNEYS FOR JO N. HOPPER,  
INTERESTED PERSON

SUGGESTION OF MOOTNESS, AND, RESPONSE AND BRIEF OF JO N. HOPPER  
TO INDEPENDENT ADMINISTRATOR'S COMPLAINT TO COMPEL DELIVERY  
OF PAPERS BELONGING TO THE ESTATE OF MAX D. HOPPER, AND,  
OBJECTION TO VERIFICATION

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served via hand-delivery to counsel for the Independent Executor, Thomas H. Cantrill, Hunton & Williams, 1445 Ross Avenue, Suite 3700, Dallas, Texas 75202, and to interested persons Stephen Hopper and Laura Wassmer, via their counsel of record, Gary Stolbach, Glast, Phillips & Murray, P.C., 14801 Quorum Drive, Suite 500, Dallas, Texas 75254 on the 6th day of October, 2011.

  
James Albert Jennings

NO. PR-10-1517-3

IN RE: ESTATE OF  
MAX D. HOPPER,  
DECEASED

§  
§  
§  
§  
§

IN THE PROBATE COURT  
NO. 3  
DALLAS COUNTY, TEXAS

AGREED PROTECTIVE ORDER

JPMorgan Chase Bank, N.A. (the "Bank"), in its capacity as Independent Administrator of the Estate of Max D. Hopper, Deceased, Jo N. Hopper ("Mrs. Hopper"), Laura Wassmer ("Wassmer"), and Stephen Hopper ("S. Hopper") all these being collectively, the parties ("parties") hereto submit the following Agreed Protective Order ("Order") for approval and entry by the Court:

Deleted: (  
Deleted: "  
Deleted: ")

Pursuant to stipulation between the parties and Rule 192.6 of the Texas Rules of Civil Procedure, the Court makes the following orders regarding production of certain information, documents and tangible things which the parties anticipate being disclosed during the informal production of documents by Ms. Sara Williamson, CPA, to the parties on August \_\_, 2011 (the "Williamson Production") and during pretrial discovery in this proceeding (the term "proceeding" as used herein is used in its broadest sense and encompasses all matters related to this Estate and any of these parties and any litigation in relation hereto, now or hereafter filed). In an effort to minimize or eliminate discovery disputes regarding the disclosure of information, documents and tangible things considered by one or more of these parties in this proceeding, the parties have agreed upon a procedure whereby such information and documents can be disclosed subject to the protections afforded by the terms of this Agreed Protective Order. The parties acknowledge that certain documents, things or information, owned jointly by the Estate and Mrs. Hopper, produced in connection with this proceeding or which are, or may become,



encompassed by discovery contain confidential information (particularly) as to the financial tax affairs of both the estate (the "Estate") of Max D. Hopper (the "Decedent") and his spouse Jo N. Hopper, in which the individuals to whom such information relates have an on-going and paramount interest in privacy. In an attempt to protect the privacy of such individuals and the confidential nature of such information, and agreeing that it would serve the interests of the parties to conduct discovery under an agreed protective order, and for other good cause shown,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Scope. This Agreed Protective Order shall govern the disclosure and use of information, documents and things in this proceeding designated as "CONFIDENTIAL" or "CONFIDENTIAL INFORMATION" (interchangeably) in accordance with the terms hereof. It also includes the procedures for challenging designations of confidentiality as relates to the matters referenced elsewhere herein. This Order shall also govern the post-trial disposition of all materials produced or disclosed and which are ultimately determined by the Court (or by failure of any party to object), as being "CONFIDENTIAL INFORMATION" obtained through discovery. This Order may also be invoked as to information, documents and things hereafter subject to discovery (only) under the Texas Rules of Civil Procedure from or against any party including, but not limited to, deposition testimony, testimony upon written questions, answers to interrogatories, answers to requests for admission and documents produced in response to document requests, subpoenas (to parties or third parties or witnesses) or otherwise, as it relates to the Williamson Production and to the tax and financial affairs of the Decedent, Mrs. Hopper and the Estate, generally, and to discovery in this proceeding between and among, *inter alia*, any of the parties hereto. For all purposes herein, without need for further action, the parties hereto agree the Williamson Production, Bates Nos. 1 through 4427 are "CONFIDENTIAL" for all

Formatted: Font: Italic

purposes and no party may challenge that fact, hereafter, whether those documents are so marked or not at the time of production.

Deleted: §

2. **Designation of Information.**

a. Any party may designate, as appropriate, any information produced hereafter in discovery as "CONFIDENTIAL INFORMATION" by marking it either as "CONFIDENTIAL" or as "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER," or by clearly identifying it using a similar designation. A party may make a designation of "CONFIDENTIAL INFORMATION" under this Order with respect to documents or other information produced by a third party by notifying the other parties in writing and specifically identifying the documents or other information designated as "CONFIDENTIAL INFORMATION." With respect to answers (and including supplemental or amended answers) to interrogatories or answers to requests for admission, such designation shall be made at the time the answers or amended/supplemented answers are served. Originals shall be preserved for inspection where available. If any documents or material have multiple pages, this designation need only be placed on the first page of such document or material. With respect to a deposition transcript covering any CONFIDENTIAL INFORMATION (including any of the Williamson Production - which is automatically deemed "CONFIDENTIAL" for all purposes), a party shall serve opposing counsel with a Notice giving written designation, by page and line, of the parts of the deposition to be treated as "CONFIDENTIAL INFORMATION" either within thirty (30) days after receipt of the transcript, or as to deposition transcript of a party, within

Deleted: any part of the Williamson Production or

Deleted: (and as to any part of the Williamson Production, Ms. Williamson and her counsel)

Deleted: In the event a party designates any of the Williamson Production as CONFIDENTIAL INFORMATION, Ms. Williamson or her counsel shall mark the copies that are produced or exchanged, in lieu of marking the original of a document, if the original is not produced.

thirty (30) days after receipt of a full and complete transcript signed by the party. To facilitate this procedure, all depositions involving or relating to the matters above shall be treated in their entirety as "CONFIDENTIAL INFORMATION" for thirty (30) days after taking and for thirty (30) days after issuance of a full and complete transcript from the court reporter. Additionally, information disclosed at a deposition may thereafter be designated by any party as "CONFIDENTIAL INFORMATION" by indication on the record at the deposition that a specific portion of testimony is so designated and subject to the terms of this Order (but no "blanket" designation is allowed as to deposition testimony). The portion of the deposition testimony designated as containing "CONFIDENTIAL INFORMATION" shall be stamped or otherwise designated by appropriate means by the court reporter as "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" and access thereto shall be limited as provided herein. Notwithstanding any other provisions herein, all discovery responses, information, documents and tangible things produced without the "CONFIDENTIAL" designation clearly marked on them are outside the scope of this Order unless and until such time as the producing party gives such notice that such documents, things or information are confidential as provided for herein.

b. With respect to any documents, things or information designated as "CONFIDENTIAL" or "CONFIDENTIAL INFORMATION" that are produced (if any) in non-paper form (including, without limitation, compact discs, diskettes, magnetic or electronic media, and other non-paper methods) and that are not susceptible to the imprinting of a stamp signifying their confidential nature, the

producing party shall, to the extent practicable, produce such material with a cover labeled "CONFIDENTIAL" and shall inform the other party's counsel (or opposing counsel where a subpoena is involved) in writing of the "CONFIDENTIAL" designation of such material at the time it is produced. Only a party's counsel or the Bank may create paper versions of documents, things or information produced in non-paper form by the opposing party that are designated as "CONFIDENTIAL" in accordance with this paragraph. If a party's counsel prints or otherwise creates a paper "hard copy" of such materials, such counsel shall mark such document with the appropriate "CONFIDENTIAL" stamp or designation prior to distributing such material. The provisions of this paragraph shall only apply to material produced in non-paper forms, including without limitation, on compact discs, diskettes, magnetic or electronic media, and other non-paper methods.

c. If a party inadvertently or unintentionally produces or discloses confidential documents, tangible things or information without first marking or designating it as "CONFIDENTIAL INFORMATION" under the terms of this Order, such party shall not be deemed to have waived any claim of confidentiality, either as to the specific information disclosed or as to any other information relating thereto, and can still notify the other party in writing that it considers such items confidential and furnish a new copy of each such item clearly marked "CONFIDENTIAL", if done within sixty (60) days of the discovery by the producing party of the inadvertent production. Such items shall be treated appropriately from the date written notice of the designation is provided



to the receiving party (but no penalty is associated with disclosure prior to the receipt of such late notice). Notwithstanding any other provisions herein, all discovery responses, information, documents and tangible things produced without the "CONFIDENTIAL" designation clearly marked on them should be deemed outside the scope of this Order unless and until such time as the producing party gives notice that such documents, things or information are confidential as provided for herein.

3. **"CONFIDENTIAL INFORMATION" Defined.** As set out above, the parties agree the Williamson Production is "Confidential Information". Further, a party designating other information (including the tax and financial information described above, or otherwise) as "CONFIDENTIAL INFORMATION" may make such designation only as to information which he, she or it believes in good faith is confidential, sensitive, or proprietary and entitled to protection. For the purposes of this Order, "CONFIDENTIAL INFORMATION" means business or personal information of any type, kind, or character which is designated as "CONFIDENTIAL INFORMATION" in the manner provided herein. Information, material or documents that are publicly available, including a company's stock option information and the like, shall not be "CONFIDENTIAL INFORMATION." Nothing shall be regarded as "CONFIDENTIAL INFORMATION" if it is information that either:

- a. is in the public domain at the time of disclosure, as evidenced by a written document (merely being filed with the U.S. Treasury/IRS as a tax filing, does mean a document is determined "public" for purposes hereof);
- b. becomes part of the public domain through no fault of the other party, as evidenced by a written document;

Deleted: A

Deleted:

c. the receiving party can show that the information was already in its rightful and lawful possession at the time of disclosure; or

d. the receiving party lawfully receives such information at a later date from a third party without restriction as to disclosure, provided such third party has the right to make the disclosure to the receiving party.

4. **Restrictions on Disclosure.** All "CONFIDENTIAL INFORMATION" produced or disclosed in this proceeding shall be subject to the following restrictions:

Deleted: estate administration

a. Such documents, information and things shall not be used for any litigation, business, or other purpose other than in this proceeding;

b. Such documents, information and things shall not be shown or communicated in any way inconsistent with the Order or to anyone other than "Qualified Persons," which persons receiving "CONFIDENTIAL INFORMATION" shall not make further disclosure to anyone except as allowed by this Order; and

c. Nothing in this Order shall be construed to limit in any way the right of the producing party to use its own "CONFIDENTIAL INFORMATION" for any purposes or to limit any party in using documents or information to which it has access by other legitimate means.

d. If Ms. Williamson later produces to the parties additional documents not part of the original Williamson Production on August 1, 2011, [Bates Nos. 1 through 4427] the parties without need for an additional order, shall and do hereby agree those documents are bound by the terms and conditions hereof as if produced originally as part of the Williamson Production. In any event, they will

Deleted: p

not be revealed or produced to anyone by Ms. Williamson, without counsel for Mrs. Hopper having a reasonable opportunity to first review same and object, in whole or in part, to their production to the other parties hereto, as she may see fit. Such objectionable documents will not be produced to the other parties hereto, except after Motion by a Court and a possible Court Order thereafter in relation to same if the Court determines production is appropriate – with such conditions as it sees fit.

All actions taken by the Bank, in its capacity as Independent Administrator, or in any other capacity, and by the Bank's counsel, with respect to any CONFIDENTIAL INFORMATION shall be deemed as being governed by this Order for purposes of this proceeding.

5. **Qualified Persons.** "Qualified Persons" means:

- a. the judge assigned to this cause, personnel of the Court, court reporters, video equipment operators at depositions, any special master appointed by the Court, any judge with jurisdiction over this proceeding or any appeal hereof, and any authorized personnel of such appellate court;
- b. the parties, the officers, directors and employees of the parties, and persons being deposed in connection with this proceeding;
- c. counsel for the parties and employees of such counsel, whose access to "CONFIDENTIAL INFORMATION" is necessary for the purposes of preparation, pretrial discovery, motions, trial, appeal, settlement or administration in connection with this proceeding.
- d. third parties retained by counsel for a party or by a party as consulting experts or expert witnesses for the purposes of preparation, pretrial discovery and

Deleted: a party may invoke the terms of this Order as to any of those documents to which this Order is properly applicable.¶

Formatted: Indent: Left: 0"

Deleted: actions taken in connection with this proceeding for purposes of

Deleted: .

Deleted: ;

proceedings, trial, appeal, settlement or administration in connection with this proceeding;

e. third-party contractors or employees of third-party contractors involved, with respect to this proceeding, solely in one or more aspects of copying, organizing, filing, coding, converting, storing or retrieving documents or information at the direction of counsel for a party or the employees of such counsel;

f. any actual or prospective witness in this proceeding, except that such a person may only be shown a matter designated "CONFIDENTIAL" or "SUBJECT TO PROTECTIVE ORDER" or the like, during, or during or in connection with the preparation for his or her actual or prospective testimony;

Deleted: litigation

g. any other person who is designated as a Qualified Person by written authorization of the party that designated the information as "CONFIDENTIAL INFORMATION," or by the Order of this Court or in this proceeding after notice to all parties and opportunity to be heard;

h. any person who is indicated on the document as being the author or recipient of the document or information, including the recipient of copies of the document; or to any other person who received, had a copy of or had seen a copy of the documents prior to its production in this proceeding. If "CONFIDENTIAL INFORMATION" is shown to any person other than the author, recipient or recipient of a copy, or who is not in a category designated in these subparts, ("a" - j") that person may not retain the document or a copy of the document;

i. any person designated as a mediator in this action by either Court Order or agreement of all parties in connection with this proceeding; and

j. any governmental entity to whom the Bank or its counsel reasonably believes CONFIDENTIAL INFORMATION must be disclosed in order for the Bank to properly administer the Estate. That is, nothing prevents the Bank from using the CONFIDENTIAL INFORMATION herein to perform any of its legal duties in this Estate's administration.

Deleted: person or

Before disclosing "CONFIDENTIAL INFORMATION" to any person described in paragraphs (b) - (j) above, other than officers, directors and employees of the Bank in its trust/Estate or legal department, and experts and consultants retained by the Bank in its capacity as Independent Administrator, disclosing counsel must apprise the person of the existence and general terms and restrictions of this Order.

Deleted: i

6. **Disclosure to Employees of the Designating Party.** The terms of this Order shall not prohibit disclosure by any party of the designating party's "CONFIDENTIAL INFORMATION" to any employee of the designating party (except as to the Bank, *see infra*).

Deleted: paragraph "9"

7. **Attendance at Depositions, Designation at Depositions.** At the request of any party, attendance at depositions may be restricted to Qualified Persons and the attorneys for the deponent and deponent's spouses during the disclosure of "CONFIDENTIAL INFORMATION." Testimony taken at a deposition, hearing or trial may be designated as Confidential by making a statement to that effect on the record at the deposition or other proceeding. Arrangements shall be made with the court reporter taking and transcribing such proceeding to separately bind such portions of the transcript containing information designated as Confidential, and to label such portions appropriately.

8. Deposition Exhibits. "CONFIDENTIAL INFORMATION" shall not lose its "CONFIDENTIAL INFORMATION" character because it is designated as an exhibit to a deposition, regardless of whether the deposition or deposition transcript itself is later designated in whole or in part, as "CONFIDENTIAL INFORMATION."

9. Filing and Use of "CONFIDENTIAL INFORMATION." Any document disclosing or incorporating information subject to this protective order to be filed with the Court, which comprise(s) or contain(s) copies, extracts, excerpts, or summarization of "CONFIDENTIAL INFORMATION", whether in the form of interrogatory answers, document production, depositions or deposition notices, or transcripts, pleadings, motions, affidavits, briefs or other documents purporting to reproduce or paraphrase such information, shall be filed in a sealed envelope or other appropriately sealed containers appropriately marked as "CONFIDENTIAL and SUBJECT TO PROTECTIVE ORDER". The Clerk of this Court is directed to maintain such documents under seal, to be made available only to the Court, counsel, and the jury in these proceedings (or to the attorneys for the parties in connection with or use by Qualified Persons hereunder). Material designated as "CONFIDENTIAL INFORMATION" under this Order, the information contained therein, and any summaries, copies, abstracts, or other documents derived in whole or in part from material designated as "CONFIDENTIAL INFORMATION" shall be used only in connection with this proceeding.

10. Preservation of Certain Rights. Neither the terms of this Order nor any action taken pursuant to this Order shall prejudice the right of any party to urge or contest the relevancy, admissibility or discoverability of any documents, information or things subject to this Order. Nothing in this Order shall be construed either as a finding or admission that any material constitutes or contains "CONFIDENTIAL INFORMATION." A party shall not be obligated to

Deleted: As previously stated, all actions taken by the Bank, in its capacity as Independent Administrator, or in any other capacity, and by the Bank's counsel, with respect to any "CONFIDENTIAL INFORMATION", shall be deemed as actions taken in connection with this proceeding for purposes of this Order.

challenge the propriety of a designation as "CONFIDENTIAL" at the time made, and a failure to do so shall not preclude a subsequent challenge thereto. Nothing herein shall prevent disclosure between the parties to this Order if each party designating the information as "CONFIDENTIAL" consents to such disclosure or, if the Court, after notice to all affected parties, orders such disclosure. Nor shall anything herein prevent any counsel of record from utilizing "CONFIDENTIAL INFORMATION" in the examination or cross-examination of any person who is indicated on the document or by other means as being an author, source or recipient of the "CONFIDENTIAL" information, irrespective of which party produced such information. Nothing in this Order shall prevent or prejudice the right of any party to oppose production of any information or documents or object to its admissibility into evidence. Nor shall any provision in this Order prevent or limit the Court from ordering or permitting the disclosure of the contents of such documents or things which have been marked "CONFIDENTIAL." Nothing in this Order shall prevent any attorney or expert [as identified in paragraph 5(c) or 5(d) above] from advising their client in connection with this action and, in the course thereof, referring to or relying upon his or her examination of confidential material; provided, however, that in providing such advice, such attorney or expert shall not disclose the content of any confidential material to any person who is not entitled to receive it under the terms of this Order.

**11. Inspection of Documents.** Inspection of documents produced in response to a document request and prior to the designation of specific documents for copying shall be conducted on behalf of the requesting party only by Qualified Persons who shall treat any information in these documents as "CONFIDENTIAL INFORMATION" until the producing party has had its opportunity to make its designation of "CONFIDENTIAL INFORMATION" in accordance with the terms of this Order.

12. **Subpoenas.** If "CONFIDENTIAL INFORMATION" in possession of a party to this action is subpoenaed by any court, administrative agency, legislative body or any other person not a party to this action, the party to whom the subpoena is directed shall (a) notify in writing counsel for the designating party within seven (7) business days and (b) assert this Order as a defense of such demand. The responsibility for attempting to prevent this disclosure or production of such "CONFIDENTIAL INFORMATION" shall otherwise rest exclusively with the party who so designated the information; provided, however, that if the designating party objects to disclosure, the subpoenaed party shall not disclose the "CONFIDENTIAL INFORMATION" without the written consent of the designating party or the order of the court having jurisdiction of the subpoena.

Deleted: three

Deleted: 3

13. **Challenging Designations.** If after being furnished any information, documents or things designated as "CONFIDENTIAL INFORMATION" a party wishes to challenge the claim of confidentiality, the objecting party shall serve written notice thereof to the designating party, identifying with specificity the information, documents or things that the objecting party contends ought not to be designated as confidential. The designating party shall have fifteen (15) days within which to serve a written response, failing which the designating party shall be deemed to have waived its designation and the specified information shall lose its "CONFIDENTIAL INFORMATION" character. If counsel for the challenging and designating parties, after conferring in person, are unable to resolve the dispute by agreement, the designating party shall have twenty (20) days from the date of the conference to file a motion for protective order, failing which the designating party shall be deemed to have waived its designation and the specified information shall lose its "CONFIDENTIAL INFORMATION" character. If a motion for protective order is filed, the information, documents or things in



dispute shall remain "CONFIDENTIAL INFORMATION" until the Court has ruled on the motion for protective order. *The burden shall be upon the designating party to establish the confidentiality of the specified document or information. These provisions do not shift the legal burden of proof to the party challenging a designation of confidentiality.*

14. **Modifications of this Order.** The parties may, by stipulation or written agreement (even if not filed with the Court), provide for exceptions to this Order and any party may seek an order of this Court, modifying this Order.

15. **Ongoing Effect of this Order.** This Order shall remain in effect after the conclusion of this litigation. Within ninety (90) days after the final conclusion of this litigation (including any appeal from any judgment), and subject to further Order of this Court or written stipulation of the parties, each party, other than the Bank and its counsel, shall return to the designating party all documents, exhibits, deposition transcripts and copies thereof containing material designated herein by the opposing party as "CONFIDENTIAL INFORMATION." This includes all notes, memoranda, summaries, or other documents in the possession, custody or control of any party and any entity or other person who had access to such information (but does not include pleadings, attorney notes, memoranda, summaries or other attorney work product) incorporating the "CONFIDENTIAL INFORMATION" which that party received pursuant to this Order.

SIGNED on this the \_\_\_\_\_ day of August, 2011.

\_\_\_\_\_  
JUDGE PRESIDING

AGREED:

By: \_\_\_\_\_  
Thomas H. Cantrill  
John C. Eichman  
Hunton & Williams LLP  
1445 Ross Avenue, Suite 3700  
Dallas, Texas 75202-2700

**ATTORNEYS FOR  
JPMORGAN CHASE BANK, N.A.**

By: \_\_\_\_\_  
James Albert Jennings  
Erhard & Jennings, P.C.  
1601 Elm Street, Suit 4242  
Dallas, Texas 75201  
**ATTORNEYS FOR  
JO N. HOPPER**

By: \_\_\_\_\_  
Michael L. Graham  
Janet P. Strong  
The Graham Law Firm, P.C.  
100 Highland Park Village, Suite 200  
Dallas, Texas 75205  
**ATTORNEYS FOR  
JO N. HOPPER**

By: \_\_\_\_\_  
Gary Stolbach  
Melinda H. Sims  
Glast, Phillips & Murray, P.C.  
14801 Quorum Drive, Suite 500  
Dallas, Texas 75254-1449  
**ATTORNEYS FOR  
LAURA WASSMER AND STEPHEN HOPPER**

NO. PR-10-1517-3

IN RE: ESTATE OF  
MAX D. HOPPER,  
DECEASED

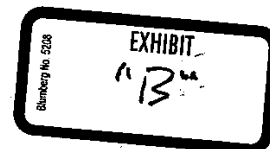
§  
§  
§  
§  
§

IN THE PROBATE COURT  
NO. 3  
DALLAS COUNTY, TEXAS

**AGREED PROTECTIVE ORDER**

JPMorgan Chase Bank, N.A. (the "Bank"), in its capacity as Independent Administrator of the Estate of Max D. Hopper, Deceased, Jo N. Hopper ("Mrs. Hopper"), Laura Wassmer ("Wassmer"), and Stephen Hopper ("S. Hopper") all these being collectively, the parties ("parties") hereto submit the following Agreed Protective Order ("Order") for approval and entry by the Court:

Pursuant to stipulation between the parties and Rule 192.6 of the Texas Rules of Civil Procedure, the Court makes the following orders regarding production of certain information, documents and tangible things which the parties anticipate being disclosed during the informal production of documents by Ms. Sara Williamson, CPA, to the parties on October \_\_, 2011 (Bates numbers 1-5249 (but excluding 4429-4330; 4438; 4439-4463; 4464-4465; 4482-4496; 4520-4527; 4601-4603; 4977-4983; and 4984-4988 (the "Williamson Production") and during pretrial discovery in this proceeding (the term "proceeding" as used herein is used in its broadest sense and encompasses all matters related to the administration of this Estate and any litigation in relation thereto, now or hereafter filed). The parties acknowledge and the Court finds, that certain documents, things or information, produced in connection with this proceeding or which are, or may become, encompassed by discovery in connection with this proceeding, may contain confidential information particularly as to the financial tax affairs of both the estate (the "Estate") of Max D. Hopper (the "Decedent") and his spouse Jo N. Hopper, in which the



individuals to whom such information relates have an on-going and paramount interest in privacy. In an attempt to protect the privacy of such individuals and the confidential nature of such information, and agreeing that it would serve the interests of the parties to conduct discovery or exchange documents under an agreed protective order, and for other good cause shown,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. **Scope.** This Agreed Protective Order shall govern the disclosure and use of information, documents and things in this proceeding designated as "CONFIDENTIAL" or "CONFIDENTIAL INFORMATION" (interchangeably) in accordance with the terms hereof. It also includes the procedures for challenging designations of confidentiality as relates to the matters referenced elsewhere herein. This Order shall also govern the post-trial disposition of all materials produced or disclosed and which are ultimately determined by the Court (or by failure of any party to object), as being "CONFIDENTIAL INFORMATION" obtained through discovery. This Order may be invoked as to information, documents and things hereafter subject to discovery (only) under the Texas Rules of Civil Procedure from or against any party including, but not limited to, deposition testimony, testimony upon written questions, answers to interrogatories, answers to requests for admission and documents produced in response to document requests, subpoenas (to parties or third parties or witnesses) or otherwise, as it relates to the Williamson Production and to the tax and financial affairs of the Decedent, Mrs. Hopper and the Estate, generally, and to discovery in this proceeding between and among, *inter alia*, any of the parties hereto.

2. **Designation of Information.**

a. Any party may designate, as appropriate, all or any part of the Williamson Production<sup>1</sup> or any information produced hereafter by any party in discovery as "CONFIDENTIAL INFORMATION" by marking it either as "CONFIDENTIAL" or as "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER," or by clearly identifying it using a similar designation. A party may make a designation of "CONFIDENTIAL INFORMATION" under this Order with respect to documents or other information produced by a third party by notifying the other parties in writing (and as to all or any part of the Williamson Production, notifying Ms. Williamson and her counsel as well) and specifically identifying the documents or other information designated as "CONFIDENTIAL INFORMATION." With respect to answers (and including supplemental or amended answers) to interrogatories or answers to requests for admission, such designation shall be made at the time the answers or amended/supplemented answers are served. Originals shall be preserved for inspection where available. If any documents or material have multiple pages, this designation need only be placed on the first page of such document or material. With respect to a deposition transcript covering any CONFIDENTIAL INFORMATION, a party shall serve opposing counsel with a Notice giving written designation, by page and line (where less than a whole page is designated), of the parts of the deposition to be treated as "CONFIDENTIAL INFORMATION" either within

---

<sup>1</sup> Jo Hopper initially designated the Williamson Production in toto as "Confidential" for purposes hereof. Within sixty (60) days of the signing of this Order, Jo Hopper may remove the "Confidential" designation as to any documents in the Williamson Production that she believes are not confidential or proprietary and entitled to protection.

thirty (30) days after receipt of the transcript, or as to a deposition transcript of a party, within thirty (30) days after receipt of a full and complete transcript signed by the party. To facilitate this procedure, all depositions involving or relating to the matters above shall be treated in their entirety as "CONFIDENTIAL INFORMATION" for thirty (30) days after taking and for thirty (30) days after issuance of a full and complete transcript from the court reporter. Additionally, information disclosed at a deposition may thereafter be designated by any party as "CONFIDENTIAL INFORMATION" by indication on the record at the deposition that a specific portion of testimony is so designated and subject to the terms of this Order (but no "blanket" designation is allowed as to an entire deposition testimony). The portion(s) of the deposition testimony designated as containing "CONFIDENTIAL INFORMATION" shall be stamped or otherwise designated by appropriate means by the court reporter as "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" and access thereto shall be limited as provided herein. Notwithstanding any other provisions herein, all discovery responses, information, documents and tangible things produced without the "CONFIDENTIAL" designation clearly marked on them are outside the scope of this Order unless and until such time as the producing party gives such notice that such documents, things or information are confidential as provided for herein.

b. With respect to any documents, things or information designated as "CONFIDENTIAL" or "CONFIDENTIAL INFORMATION" that are produced (if any) in non-paper form (including, without limitation, compact discs, diskettes, magnetic or electronic media, and other non-paper methods) and that are not

susceptible to the imprinting of a stamp signifying their confidential nature, the producing party shall, to the extent practicable, produce such material with a cover labeled "CONFIDENTIAL" and shall inform the other parties' counsel (or opposing counsel where a subpoena is involved) in writing of the "CONFIDENTIAL" designation of such material at the time it is produced. Only a parties' counsel or the Bank may create paper versions of documents, things or information produced in non-paper form by the opposing party that are designated as "CONFIDENTIAL" in accordance with this paragraph. If a party's counsel prints or otherwise creates a paper "hard copy" of such materials, such counsel shall mark such document with the appropriate "CONFIDENTIAL" stamp or designation prior to distributing such material. The provisions of this paragraph shall only apply to material produced in non-paper forms, including without limitation, on compact discs, diskettes, magnetic or electronic media, and other non-paper methods.

c. If a party inadvertently or unintentionally produces or discloses confidential documents, tangible things or information without first marking or designating it as "CONFIDENTIAL INFORMATION" under the terms of this Order, such party shall not be deemed to have waived any claim of confidentiality, either as to the specific information disclosed or as to any other information relating thereto, and can still notify the other parties in writing that it considers such items confidential and furnish a new copy of each such item clearly marked "CONFIDENTIAL", if done within sixty (60) days of the discovery by the producing party of the inadvertent production. Such items shall

be treated appropriately from the date written notice of the designation is provided to the other parties (but no penalty is associated with disclosure prior to the receipt of such late notice). Notwithstanding any other provisions herein, all discovery responses, information, documents and tangible things produced without the "CONFIDENTIAL" designation clearly marked on them should be deemed outside the scope of this Order unless and until such time as the producing party gives notice that such documents, things or information are confidential as provided for herein.

3. **"CONFIDENTIAL INFORMATION" Defined.** A party designating documents/information (including, without limitation, the tax and financial information described above) as "CONFIDENTIAL INFORMATION" may make such designation only as to documents/information which he, she or it believes is confidential or proprietary and entitled to protection. Information, material or documents that are publicly available, including a company's stock option information and the like, shall not be "CONFIDENTIAL INFORMATION." Nothing shall be regarded as "CONFIDENTIAL INFORMATION" if it is information that either:

- a. is in the public domain at the time of disclosure, as evidenced by a written document (merely being filed with the U.S. Treasury/IRS as a tax filing, etc., does not mean a document is deemed or determined "public" for purposes hereof);
- b. becomes part of the public domain through no fault of the other party(ies), as evidenced by a written document;
- c. the receiving party(ies) can show that the information was already in its/their rightful and lawful possession at the time of disclosure; or



d. the receiving party(ies) lawfully receives such information at a later date from a third party without restriction as to disclosure, provided such third party is not a Qualified Person hereunder and has the right to make the disclosure to the receiving party(ies).

4. **Restrictions on Disclosure.** All "CONFIDENTIAL INFORMATION" produced or disclosed in this proceeding shall be subject to the following restrictions:

a. Such documents, information and things shall not be shown or communicated in any way inconsistent with the Order and shown to anyone other than "Qualified Persons," which persons receiving "CONFIDENTIAL INFORMATION" shall not make further disclosure to anyone except as allowed by this Order; and

b. Nothing in this Order shall be construed to limit in any way the right of the producing party to use its own "CONFIDENTIAL INFORMATION" for any purposes or to limit any party in using documents or information to which it has access by other legitimate means.

5. **Qualified Persons.** "Qualified Persons" means:

a. the judge assigned to this proceeding, personnel of the Court, court reporters, jury members, video equipment operators at depositions, any special master appointed by the Court, any judge with jurisdiction over this proceeding or any appeal hereof, and any authorized personnel of such appellate court;

b. the parties and their spouses, attendees at depositions (as may be allowed by the Tex. R. Civ. P.) the officers, directors and employees (as to employees; those with a legitimate need to receive or review specific Confidential

Information) of the parties, and persons being deposed in connection with this proceeding;

c. counsel for the parties and employees of such counsel, whose access to "CONFIDENTIAL INFORMATION" is necessary for the purposes of representation in connection with this proceeding;

d. third parties retained by counsel for a party or by a party as consulting experts or expert witnesses for the purposes of this proceeding;

e. third-party contractors or employees of third-party contractors involved, with respect to this proceeding, acting solely at the direction of counsel for a party or the employees of such counsel;

f. any actual or prospective witness in this proceeding, except that such a person may only be shown a matter designated "CONFIDENTIAL" or "SUBJECT TO PROTECTIVE ORDER" or the like, during, or during or in connection with the preparation for his or her actual or prospective testimony;

g. any other person who is designated as a Qualified Person by written authorization of the party that designated the information as "CONFIDENTIAL INFORMATION," or by the Order of this Court in this proceeding after notice to all parties and opportunity to be heard;

h. any person who is indicated on the document as being the author or recipient of the document or information, including the recipient of copies of the document; or to any other person who received, had a copy of or had seen a copy of the documents prior to its production in this proceeding. If "CONFIDENTIAL INFORMATION" is shown to any person other than the author, recipient or

recipient of a copy, or who is not in a category designated in these subparts (a) -

(k) that person may not retain the document or a copy of the document;

i. any person designated as a mediator (in accordance with applicable Texas law) in this proceeding by either Court Order or agreement of any parties to the mediation;

j. any governmental entity to whom the parties or their counsel reasonably believe CONFIDENTIAL INFORMATION must be disclosed;

k. the parties' professional advisors, being accountants, certified financial planners, licensed broker-dealers, valuation professions and attorneys;

l. persons or entities to whom the parties or their counsel reasonably believe disclosure of CONFIDENTIAL INFORMATION is required by law.

Before disclosing "CONFIDENTIAL INFORMATION" to any person described in subparts (b) - (i) and (k-l) above, other than officers, directors and employees (as the standard set out in "(b)" above) of the Bank, disclosing counsel must apprise the person of the existence and general terms and restrictions of this Order.

6. **Attendance at Depositions, Designation at Depositions.** At the request of any party, attendance at depositions may be restricted to Qualified Persons and the attorneys for the deponent and parties' spouses during the disclosure of "CONFIDENTIAL INFORMATION." Testimony taken at a deposition, hearing or trial may be designated as "Confidential" by making a statement to that effect on the record at the deposition or other proceeding. Arrangements shall be made with the court reporter taking and transcribing such proceeding to separately bind such portions of the transcript containing information designated as "Confidential", and to label such portions appropriately.

7. **Deposition Exhibits.** "CONFIDENTIAL INFORMATION" shall not lose its "CONFIDENTIAL INFORMATION" character because it is designated as an exhibit to a deposition, regardless of whether the deposition or deposition transcript itself is later designated in whole or in part, as "CONFIDENTIAL INFORMATION."

8. **Filing and Use of "CONFIDENTIAL INFORMATION."** Any document disclosing information subject to this Protective Order to be filed with the Court, which comprise(s) or contain(s) copies, extracts, excerpts, or summarization of "CONFIDENTIAL INFORMATION", whether in the form of interrogatory answers, document production, depositions or deposition notices, or transcripts, pleadings, motions, affidavits, briefs or other documents purporting to reproduce or paraphrase such information, shall be filed in a sealed envelope or other appropriately sealed containers appropriately marked as "CONFIDENTIAL and SUBJECT TO PROTECTIVE ORDER". The Clerk of this Court is directed to maintain such documents under seal, to be made available only to the Court, counsel, and the jury in these proceedings (or to the attorneys for the parties in connection with or use by Qualified Persons hereunder). Material designated as "CONFIDENTIAL INFORMATION" under this Order, the information contained therein, and any summaries, copies, abstracts, or other documents derived in whole or in part from material designated as "CONFIDENTIAL INFORMATION" shall be used only in connection with this proceeding. Nothing in this Order prevents the Bank from using the CONFIDENTIAL INFORMATION herein to perform any of its legal duties in this Estate's administration.

9. **Preservation of Certain Rights.** Neither the terms of this Order nor any action taken pursuant to this Order shall prejudice the right of any party to urge or contest the relevancy, admissibility or discoverability of any documents, information or things subject to this

Order. Nothing in this Order shall be construed either as a finding or admission that any material constitutes or contains "CONFIDENTIAL INFORMATION." A party shall not be obligated to challenge the propriety of a designation as "CONFIDENTIAL" at the time made, and a failure to do so shall not preclude a subsequent challenge thereto. Nor shall anything herein prevent any counsel of record from utilizing "CONFIDENTIAL INFORMATION" in the examination or cross-examination of any person who is indicated on the document or by other means as being an author, source or recipient of the "CONFIDENTIAL" information, irrespective of which party produced such information. Nothing in this Order shall prevent or prejudice the right of any party to oppose production of any information or documents or object to its admissibility into evidence. Nor shall any provision in this Order prevent or limit the Court from ordering or permitting the disclosure of the contents of such documents or things which have been marked "CONFIDENTIAL." Nothing in this Order shall prevent any attorney or expert [as identified in paragraph 5(c) or 5(d) above] from advising their client in connection with this action and, in the course thereof, referring to or relying upon his or her examination of confidential material; provided, however, that in providing such advice, such attorney or expert shall not disclose the content of any confidential material to any person who is not entitled to receive it under the terms of this Order.

10. **Inspection of Documents.** Inspection of documents produced in response to a document request and prior to the designation of specific documents for copying shall be conducted on behalf of the requesting party only by Qualified Persons who shall treat any information in these documents as "CONFIDENTIAL INFORMATION" until the producing party has had its opportunity to make its designation of "CONFIDENTIAL INFORMATION" in accordance with the terms of this Order.

11. **Subpoenas.** If "CONFIDENTIAL INFORMATION" in possession of a party to this action is subpoenaed by any court, administrative agency, legislative body or any other person not a party to this action, the party to whom the subpoena is directed shall (a) notify in writing counsel for the designating party within five (5) business days and (b) assert this Order as a defense of such demand. Subpart (b), however, does not apply if the person who caused the subpoena to issue is a Qualified Person under this Order. The responsibility for attempting to prevent this disclosure or production of such "CONFIDENTIAL INFORMATION" shall otherwise rest exclusively with the party who so designated the information; provided, however, that if the designating party objects to disclosure, the subpoenaed party shall not disclose the "CONFIDENTIAL INFORMATION" without the written consent of the designating party or the order of the court having jurisdiction of the subpoena.

12. **Challenging Designations.** If after being furnished any information, documents or things designated as "CONFIDENTIAL INFORMATION" a party wishes to challenge the claim of confidentiality, the objecting party shall serve written notice thereof to the designating party, identifying with specificity the information, documents or things that the objecting party contends ought not to be designated as confidential. The designating party shall have fifteen (15) days<sup>1</sup> within which to serve a written response, failing which the designating party shall be deemed to have waived its designation and the specified information shall lose its "CONFIDENTIAL INFORMATION" character. The designating party's counsel shall personally attempt to contact the objecting party's counsel to hold or schedule a conference to resolve the disputed matters. The designating party's counsel shall make at least one attempt to contact the objecting party's counsel. The attempt shall be made during regular business hours.

---

<sup>1</sup> All time periods set forth in this period shall be counted in accordance with the TRCP.

If counsel for the challenging and designating parties, after conferring or attempting to confer, are unable to resolve the dispute by agreement, the designating party shall have twenty (20) days from the date of the designating party's written response to file a motion for protective order, failing which the designating party shall be deemed to have waived its designation and the specified information shall lose its "CONFIDENTIAL INFORMATION" character. If a motion for protective order is filed, the information, documents or things in dispute shall remain "CONFIDENTIAL INFORMATION" until the Court has ruled on the motion for protective order. *The burden shall be upon the designating party to establish the confidentiality of the specified document or information. These provisions do not shift the legal burden of proof to the party challenging a designation of confidentiality.*

13. **Modifications of this Order.** The parties may, by stipulation or written agreement (even if not filed with the Court), provide for exceptions to this Order and any party and any party affected by this Order may seek an order of this Court, modifying this Order.

14. **Ongoing Effect of this Order.** This Order shall remain in effect after the conclusion of this proceeding only with respect to specific information that the Court orders or the parties agree, at the conclusion of this proceeding, shall remain under this Order's effect.

15. **Adequacy of Prior Designation Acknowledged.** The parties acknowledge they have previously been informed, that Jo N. Hopper wishes to, and agree she has, designated all documents in the Williamson Production as "Confidential Information. However, this Order is not a determination by the Court or an agreement or admission of the parties as to whether all the documents in the Williamson Production are "Confidential Information".

SIGNED on this the \_\_\_\_\_ day of October, 2011.

\_\_\_\_\_  
JUDGE PRESIDING

AGREED:

By: \_\_\_\_\_  
Thomas H. Cantrill  
John C. Eichman  
Hunton & Williams LLP  
1445 Ross Avenue, Suite 3700  
Dallas, Texas 75202-2700  
(214) 468-3300 (office)  
(124) 468-3599 (facsimile)

**ATTORNEYS FOR  
JPMORGAN CHASE BANK, N.A.**

By: \_\_\_\_\_  
James Albert Jennings  
Erhard & Jennings, P.C.  
1601 Elm Street, Suit 4242  
Dallas, Texas 75201  
(214) 720-4001 (office)  
(214) 871-1655 (facsimile)

**ATTORNEYS FOR  
JO N. HOPPER**

By: \_\_\_\_\_  
Michael L. Graham  
Janet P. Strong  
The Graham Law Firm, P.C.  
100 Highland Park Village, Suite 200  
Dallas, Texas 75205  
(214) 599-7000 (office)  
(214) 599-7010 (facsimile)

**ATTORNEYS FOR  
JO N. HOPPER**



By: \_\_\_\_\_

Gary Stolbach

Melinda H. Sims

Glast, Phillips & Murray, P.C.

14801 Quorum Drive, Suite 500

Dallas, Texas 75254-1449

(972) 419-8312 (office)

(972) 419-8329 (facsimile)

**ATTORNEYS FOR  
LAURA WASSMER AND STEPHEN HOPPER**

**ERHARD & JENNINGS**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELORS AT LAW  
THANKSGIVING TOWER  
1601 ELM STREET, SUITE 4242  
DALLAS, TEXAS 75201

TELEPHONE  
(214) 720-4001

FACSIMILE  
(214) 871-1655

JAMES ALBERT JENNINGS

Email: [jjennings@erhardjennings.com](mailto:jjennings@erhardjennings.com)  
OR [jalennings@aol.com](mailto:jalennings@aol.com)

September 14, 2011

Via [jeichman@hunton.com](mailto:jeichman@hunton.com)  
Mr. John Eichman  
Hunton & Williams LLP  
1445 Ross Ave., Suite 3700  
Dallas, TX 75202

Re: Estate of Max Hopper ("Estate")/Rule 11 Agreement

*or the entry of a protective order*

Dear John:

Per our discussion and agreement earlier this afternoon, this will memorialize the agreement of both your client, the Bank, and our client, Jo Hopper, as follows:

The Bank may immediately pick up from David Taylor's offices a copy of the Williamson Production, only (but not the withheld Documents - previously described), pending the entry of a protective order. The Bank's Estate's administration Group and the Bank's counsel can only use the Williamson Production to assist it, if needed, in tax filings and other matters incident to the Estate's Administration during the period up through the time of any hearing, as set forth below.

The Bank also specifically agrees that ~~its~~ <sup>at the</sup> Bank's Estates Administration Group and the Bank's counsel, only, will hold the Williamson Production documents and not distribute them to anyone else outside that group, except and unless and until an Agreed Protective Order is entered into in this case (signed by Gary Stolbach and his clients and both of us, or a Protective Order is entered by the Court in regard to this same matter). Nothing about this Agreement adversely effects Gary Stolbach's firm being able to continue to review another copy of the Williamson Documents, which remain at David Taylor's offices, under the same terms and conditions David previously advised the parties.

You have also agreed that based on this understanding you will take the present Complaint that was set for this Friday off the docket and you will reset it for a time within 30 days, if this matter is not earlier resolved by agreement. The parties (Hopper and Williamson) will have until two days before the Complaint is later heard to file their responses and briefs with the Court - if hearing upon same even becomes necessary. The hearing will not be held before October 7, 2011.

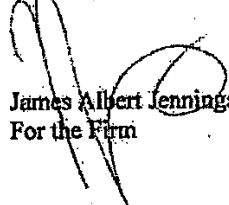
If the above accurately reflects the agreement between the parties, please sign below and return to our offices. The parties agree this Rule 11 need not be filed to be effective and is effective upon signature of the parties.



Mr. John Eichman  
September 14, 2011  
Page 2

A facsimile signature or email signature is the equivalent of an original for all purposes,  
with all signature pages and the body hereof forming one unitary document and Agreement.

Sincerely,



James Albert Jennings  
For the Firm

JAJ:je

cc: Mr. Michael L. Graham  
Mr. David Taylor  
Client



John Eichman  
Attorney for JPMorgan Chase Bank, N.A.  
in its capacity as Independent Administrator  
of the Estate of Max Hopper

NO. PR-10-1517-3

IN RE: ESTATE OF  
MAX D. HOPPER  
DECEASED

§  
§  
§  
§  
§

IN THE PROBATE COURT  
NO. 3  
DALLAS COUNTY, TEXAS

**JOINT AGREEMENT ON CONFIDENTIALITY  
AND NON-USE OF DOCUMENTS EXAMINED "IN CAMERA"  
("AGREEMENT")**

The signatories hereto agree on behalf of their respective clients to adhere to the following terms and conditions regarding the agreed review of the following nine (9) bates-stamped documents, being numbers: 4429-4430; 4438; 4439-4463; 4464-4465; 4482-4496; 4520-4527; 4601-4603; 4977-4983; and 4984-4988 (the "Documents").

These Documents, which are contained in the files of Sarah Williamson, CPA, are not presently part of the "Williamson Production" records that JPMorgan Chase Bank, N.A., in its capacity as Independent Administrator of the Estate of Max D. Hopper (the "Bank") has already received, and which the Bank, Stephen Hopper ("S. Hopper") and Laura Wassmer ("L. Wassmer") have previously all had the opportunity to review in the offices of Thompson Coe. These Documents have been segregated from those other documents (the Williamson Production) because it was determined by both Ms. Williamson and her counsel, and by Jo Hopper and her counsel, that these Documents were not "papers belonging to the Estate" subject to Section 75 of the Texas Probate Code (the Bank, S. Hopper and L. Wassmer hereto do not necessarily agree to this position, merely by virtue of their counsel executing this Agreement on their respective behalves).

Thus, purely for the purposes of assisting the other parties in determining the validity of that assertion, and as an accommodation to the Bank, S. Hopper and L. Wassmer, therefore Mrs. Hopper and Ms. Williamson (and their respective counsel) agree to allow the review of the


**JOINT AGREEMENT ON CONFIDENTIALITY  
AND NON-USE OF DOCUMENTS EXAMINED**



Documents for as much as two (2) hours [each] by Counsel for the Bank, S. Hopper and L. Wassmer (collectively, "Reviewing Counsel"), essentially in an "in camera" mode, so the Reviewing Counsel can assure themselves as to whether or not these Documents are part of the papers of the Estate in their respective views. Reviewing Counsel are permitted to review the Documents, but are prohibited from taking notes or making any copies of the Documents. The review is purely for examination of the Documents, and the contents of the Documents cannot be disclosed to anyone as a result of this review, except that the Reviewing Counsel are permitted to advise their clients whether they should or should not, after Reviewing Counsel's review of the Documents, consider further efforts to assert that the Documents are possibly papers belonging to the Estate, subject to Section 75 of the Texas Probate Code. This special "in camera" review procedure is hereby allowed Reviewing Counsel, and all parties agree it is made, without waiver or diminishment by either Ms. Williamson or Mrs. Hopper of any possible claims or assertions (now or later before the Court) of privilege (attorney-client or otherwise applicable privileges) regarding the Documents, that the Documents are confidential, or that the Documents should not be disclosed for any legal reason (whatsoever) to any of the parties in this cause or generally, or, that their use should be restricted by the Court, now or hereafter.

With this understanding, the Documents can be reviewed, for the time allowed as to each Reviewing Counsel, on any day during the week of October 3, 2011. Likewise, all parties agree that by entering into this Agreement, the Bank, S. Hopper and L. Wassmer do not waive their right to contend that the Documents are not privileged or confidential and are hereafter discoverable under the ordinary Rules applying to discovery - in any litigation filed between these parties.

AGREED:

By:   
Thomas H. Cantrill  
John C. Eichman  
Hunton & Williams LLP  
1445 Ross Avenue, Suite 3700  
Dallas, Texas 75202-2700

Date: 9/30/11

**ATTORNEYS FOR  
JPMORGAN CHASE BANK, N.A.  
AS INDEPENDENT ADMINISTRATOR OF  
THE ESTATE OF MAX D. HOPPER**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Gary Stolbach  
Melinda H. Sims  
Glast, Phillips & Murray, P.C.  
14801 Quorum Drive, Suite 500  
Dallas, Texas 75254-1449

**ATTORNEYS FOR  
LAURA WASSMER AND STEPHEN HOPPER**

By: \_\_\_\_\_

Date: \_\_\_\_\_

James Albert Jennings  
Erhard & Jennings, P.C.  
1601 Elm Street, Suite 4242  
Dallas, Texas 75201

**ATTORNEYS FOR JO HOPPER**

By: \_\_\_\_\_

Date: \_\_\_\_\_

David M. Taylor  
Thompson Coe Cousins & Irons, L.L.P.  
700 North Pearl Street  
Twenty-Fifth Floor - Plaza of the Americas  
Dallas, Texas 75201

**ATTORNEYS FOR SARAH WILLIAM, C.P.A.**

AGREED:

By: \_\_\_\_\_  
Thomas H. Cantrill  
John C. Eichman  
Hunton & Williams LLP  
1445 Ross Avenue, Suite 3700  
Dallas, Texas 75202-2700

Date: \_\_\_\_\_

**ATTORNEYS FOR  
JPMORGAN CHASE BANK, N.A.  
AS INDEPENDENT ADMINISTRATOR OF  
THE ESTATE OF MAX D. HOPPER AND  
IN ALL CAPACITIES**

By: \_\_\_\_\_  
Gary Stolbach  
Melinda H. Sims  
Glast, Phillips & Murray, P.C.  
14801 Quorum Drive, Suite 500  
Dallas, Texas 75254-1449

Date: \_\_\_\_\_

**ATTORNEYS FOR  
LAURA WASSMER AND STEPHEN HOPPER**

By: \_\_\_\_\_  
James Albert Jennings  
Erhard & Jennings, P.C.  
1601 Elm Street, Suite 4242  
Dallas, Texas 75201

Date: 9/30/11

**ATTORNEY FOR JO HOPPER**

By: \_\_\_\_\_  
David M. Taylor  
Thompson Coe Cousins & Irons, L.L.P.  
700 North Pearl Street  
Twenty-Fifth Floor - Plaza of the Americas  
Dallas, Texas 75201

Date: 9/30/11

**ATTORNEYS FOR SARAH WILLIAMSON, CPA**

**JOINT AGREEMENT ON CONFIDENTIALITY  
AND NON-USE OF DOCUMENTS EXAMINED**