

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

CIVIL DIVISION

MIAMI TOWNSHIP
BOARD OF TRUSTEES,

Plaintiff,

-vs-

DARREN POWLETTE,

Defendant.

* CASE NO. 2019 CV 05444
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* JUDGE SKELTON
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* AGREED PROTECTIVE ORDER
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The Court finds that entry of this Order is necessary to safeguard the confidentiality and sensitivity of documents that may contain confidential financial and trade information. Accordingly, pursuant to Civil Rule 26(C) and Rule 45(E) of the Rules of Superintendence for the Courts of Ohio, it is hereby ordered that the Parties shall comply with the terms and conditions of this Order. In the event that this matter proceeds to trial, the Parties will confer prior to trial and will strive to devise an appropriate mechanism for the introduction into evidence (or discussion by attorneys and witnesses) of any protected information.

Any documents produced during discovery or informally exchanged through counsel may be designated by the producing party (including third parties responding to subpoenas) as “Confidential.” Documents designated in this manner (“Confidential Information”) will be used solely for the purposes of preparing for and conducting this litigation and will not be further used or disclosed.

Neither the receiving Party nor their counsel nor any person who agrees to be bound by this Order shall give, show, make available, or communicate in any way any Confidential

Information, except to those individuals who are identified below and then only in the manner allowed by this Order and to the extent such Confidential Information is necessary for purposes related to the litigation of this action.

Confidential Information produced in this litigation shall be disclosed only to, and this Order shall apply to and bind, each of the following persons:

- a) Counsel of record and the attorneys, clerical, paralegal, and secretarial staff assisting said counsel to whom it is necessary that the material be disclosed for purposes of this litigation;
- b) The Parties to this action and employees of the Parties to whom it is necessary that the material be disclosed for purposes of this litigation;
- c) Outside independent experts and consultants of the Parties who have agreed in writing to be bound by this Order and who are assisting counsel of record in this action and any assistants and staff of said experts and consultants to whom it is necessary that the material be disclosed for purposes of this litigation; and
- d) The Court and Court personnel, including stenographic reporters.

Counsel for any Party to whom Confidential Information is disclosed shall be responsible for providing this Order to any person designated above.

In the event that counsel for any Party determines to file or submit to the Court any Confidential Information or any information derived therefrom, the Party filing or submitting such information shall first seek the unanimous consent of all other Parties to file said Confidential Information without restricting public access. If all Parties consent to the filing of said Confidential Information without restricting public access, the consent shall be indicated within

the body of the filing to which the Confidential Information is attached and no further action is necessary.

If unanimous consent is withheld, the Party seeking to file or submit Confidential Information must submit a written motion to the Court seeking to restrict public access to the information pursuant to Rule 45(E) of the Rules of Superintendence for the Courts of Ohio. Upon the Court's order, such information ordered restricted from public access or ordered redacted shall not be available for public access. If the Court orders redaction of information contained in a document, a redacted version of the document shall be filed in the case file along with a copy of the Court's Sup. R. 45 Order. Entire documents restricted from public access or ordered redacted shall be filed only in sealed envelopes containing a copy of the Court's Sup. R. 45 Order and on which shall be endorsed (a) the caption of this action, (b) the name, address, and telephone number of filing counsel, (c) a designation of "Confidential – Subject to Protective Order and Sup. R. 45", and (d) a statement substantially in the following form:

This envelope contains documents that are subject to a Protective Order entered by the Court in this action governing the use of confidential material, and an order entered by the Court pursuant to Sup. R. 45. The envelope shall not be opened or the contents thereof displayed or revealed except by order of the Court.

All such material restricted from public access so filed shall be maintained by the Clerk of Court separately in the case file and shall be released and available for public access only upon further order of the Court.

The Parties shall have the right to object to the designation of any document or information as Confidential Information and may apply to the Court, upon notice to the opposing party, for a ruling that the document shall not be so treated. Until the Court enters an order changing the

designation for a particular document, the document shall be treated as so designated in accordance with this Order.

Any individual not identified above who seeks access to Confidential Information in this litigation must read this Order and file and serve upon the Parties an application for access to Confidential Information with the Court. Any objection to such an application must be filed with the Court within five (5) business days of the objecting Party's receipt of the application. If no objections have been filed by the close of the fifth business day, the applicant will be granted access to all confidential information without further action by the Court. If any Party files an objection to an application, access will only be granted by Court order.

If a Party discovers any breach of any provision of this Order, the Party must promptly report the breach to the other Parties and immediately take appropriate action to cure the violation and retrieve any protected information that may have been disclosed to individuals not admitted under this Order. The Parties must reasonably cooperate in determining the reasons for any such breach.

At the conclusion of litigation in this matter, all information designated confidential by any party shall be promptly returned to the party who produced the information and, to the extent that such information is not returned, whether in paper or in electronic form, it shall be destroyed by the receiving party once all appeal times have been exhausted at the conclusion of the litigation. Further still, all parties herein and their counsel and all other persons covered by this Order shall not disclose orally any of the information produced in this matter that has been designated confidential.

Finally, any experts or persons outside the offices of counsel for the parties employed in this matter who are to review any such Confidential Information shall sign a copy of this Order and the same shall be produced to opposing counsel.

This Order, insofar as it restricts the disclosure or use of any documents or information, shall continue to be binding throughout and after the conclusion of this action, including any appeals. Following the conclusion of this action, the Court retains jurisdiction over the Parties and their counsel for enforcement of the provisions of this Order.

IT IS SO ORDERED.

Judge Skelton

Agreed:

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General Division
Montgomery County Common Pleas Court
41 N. Perry Street, Dayton, Ohio 45422

Case Number:
2019 CV 05444

Case Title:
MIAMI TOWNSHIP BOARD OF TRUSTEES vs DARREN
POWLETTE

Type:

Agreed Entry: (Signed By Judge)

So Ordered,