

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:21-CV-251-BO

BERINGER COMMERCE, INC. d/b/a)
BLUE ACORN ICI,)
)
Plaintiff,)
v.)
)
FIN CAP, INC. d/b/a “BLUEACORN.CO”;)
BLUE ACORN PPP, LLC; BLUE OAK)
FOREST, LLC; MICHAEL S. COTA;)
JAMES FLORES; STEPHANIE)
HOCKRIDGE REIS; and NATHAN REIS,)
)
Defendants.)

ORDER

This cause comes before the Court on plaintiff’s motion for protective order with “Highly Confidential – Attorneys’ Eyes Only” designation. [DE 70]. Defendants have responded and the matter is ripe for ruling.

The parties agree to the entry of a protective order to protect the proprietary and confidential business information of plaintiff. Defendants only contest whether it is necessary for the protective order to include a “Highly Confidential – Attorneys’ Eyes Only” designation.

“When issuing a protective order, the court must balance the goal of full disclosure of relevant information against reasonable protection from economic injury.” *McAirlaids, Inc. v. Kimberly-Clark Corp.*, 299 F.R.D. 498, 500 (W.D. Va. 2014). Where a case involves “highly sensitive proprietary information” it is not uncommon to include a provision in a protective order limiting certain information to attorneys only. *Progress Solar Sols., LLC v. Fire Prot., Inc.*, No. 5:17-CV-152-D, 2018 WL 11281543, at *2 (E.D.N.C. Sept. 24, 2018). A critical factor to consider

in balancing full disclosure against reasonable protection is “whether the information would be disclosed to someone involved in competitive decision-making.” *Id.*

The Court agrees with defendants that no such designation is necessary in this case. There is no claim for misappropriation of trade secrets and, importantly, the parties are not competitors; plaintiff’s assertion that the parties may become competitors in the future is too speculative to warrant the attorney-only designation in this case. Accordingly, and for those additional reasons outlined in defendants’ memorandum, the Court DENIES plaintiff’s motion. [DE 70].

The Court will enter a protective order without the Attorney’s Eyes Only designation upon submission.

SO ORDERED, this 17 day of February 2022.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE