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IN THE UNITED STATE DISTRICT COURT
FOR THE DISTRICT OF COLORADO

GREGORY C. LANGHAM
CLERK

Civil Action No.: 03-MK-0641(PAC)

BY  DEP. CLERK

Russell Cowles, an Individual

Plaintiff,

v.

Tasco Worldwide, Inc., a Delaware corporation, and
Sportsman's Guide, Inc., a Minnesota corporation

Defendants.

**JOINT MOTION TO SEAL CONFIDENTIAL INFORMATION AND FOR
ENTRY OF PROTECTIVE ORDER**

The plaintiff, Russell Cowles, and the defendant, Sportsman's Guide, Inc. ("Sportsman's Guide") (collectively, the "Parties"), by and through their counsel, file this Joint Motion to Seal Confidential Information and for Entry of Protective Order, and in support state as follows:

The Parties have agreed to a Protective Order in form and substance. *See* Agreed Protective Order, attached as Exh. A. According to the Protective Order, a party may designate information relating to the following categories of information as "Confidential": product specifications; operating costs; product costs; supplier prices; product prices; mark-ups; profits; lists of actual or prospective customers; profit margins; sales or financial information or analyses; planning; marketing or advertising; corporate minutes; committee minutes; testing and evaluation of products; negotiating strategies; or similar types of information. *See* Exh. A at ¶ 2.

2 Entry of a Protective Order at this time is necessary as Plaintiff has requested in its discovery requests to Sportsman's Guide information that Sportsman's Guide maintains is

confidential and proprietary. *See* Sportsman's Guide's Response to Plaintiff's First Set of Interrogatories ("Interrogatories"), dated May 3, 2004, attached as Exhibit B and Sportsman's Guide's Response to Plaintiff's First Set of Requests for Production ("Requests for Production"), dated May 3, 2004, attached as Exhibit C.

3. Among other information, Plaintiff requests the name and manufacturer of products advertised and/or sold as having or including means for reducing glare or parallax error of an optical scope and the number of units sold, the date of each sale, the sales price, and the purchaser of such units (*see* Exh. B at Interrogatory Nos. 5 and 6 and Exh. C at Request for Production No. 4); accounting records, documents showing sales in units and dollar amounts of gross sales, net sales, gross margins, net margins, costs of goods, and profits or losses (*see* Exh. C at Request for Production No. 5).

4 In Colorado, customer lists, pricing information, and sales data can constitute proprietary information and trade secrets. *See* Colo. Rev. Stat. § 7-74-102(4) (2004) (trade secrets include "confidential business or financial information, listing of names, addresses or telephone numbers, or other information relating to any business or profession which is secret and of value."); *see also R&D Business Systems v. Xerox Corp.*, 152 F.R.D. 195, 197 (D.Colo. 1993) (holding that lists of customers and suppliers, as well as marketing strategies and research and development efforts were trade secrets).

5 Because the Parties wish to maintain the confidentiality of certain trade secrets and proprietary information, the Parties request that this Court order the entry of the Protective Order.

6. Under the Protective Order, the Parties seek the Clerk of the Court "to maintain under seal all documents and transcripts of deposition testimony filed with this Court in this litigation by any party that are, in whole or in part, designated as CONFIDENTIAL, including all pleadings, deposition transcripts, exhibits, discovery responses or memoranda which may reproduce, paraphrase or refer to CONFIDENTIAL Materials." Exh. A at ¶ 1

7 In accordance with the Protective Order and pursuant to D.C.Colo.L.Civ.R. 7.2, the Parties ask the Court to seal all information designated by the Parties as Confidential. As this information is proprietary and confidential to the Parties, there would be no detriment to the public interest in sealing such information and any documents relating thereto

8 The Parties thus ask the Court to maintain under seal any and all information designated by the Parties as Confidential

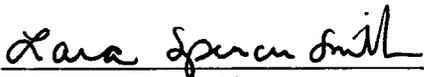
WHEREFORE, the Parties request that the Court grant entry of the Parties' Agreed Protective Order, including the provision sealing all information and papers that the Parties deem "Confidential."

DATED this 12th day of October, 2004

BY _____

Timothy J. Martin
Michael R. Henson
Rebecca A. Gegick
TIMOTHY J. MARTIN, P.C.
9250 W. 5th Avenue, Suite 200
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ATTORNEYS FOR PLAINTIFF
RUSSELL COWLES

BY:  _____

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ATTORNEYS FOR DEFENDANT
THE SPORTSMAN'S GUIDE, INC.

DATED this 12th day of October, 2004.

BY: 

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THE SPORTSMAN'S GUIDE, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of October, 2004, a true and correct copy of the foregoing **JOINT MOTION TO SEAL CONFIDENTIAL INFORMATION AND FOR ENTRY OF PROTECTIVE ORDER** was served by depositing the same in the U.S. Mail, postage prepaid, and properly addressed to the following:

Timothy J. Martin
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Melissa Brenneman