


Petitioner respectfully requests that this motion be granted and that the Board enter the attached Stipulated Protective Order in this proceeding.

Respectfully submitted,

SAFEWAY INC.

By: 

Jordan S. Weinstein
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
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Alexandria, Virginia 22314
(703) 413-3000
fax (703) 413-2220

Date: December 16, 2003

JSW/dlb [I:\ATTY\JSW\SAFEWAY\TTAB-CIVIL MATTER\10885-235048US-MOT-SPO.DOC]

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **MOTION FOR ENTRY OF STIPULATED PROTECTIVE ORDER** was served on counsel for Respondent, this 16th day of December, 2003, by delivering same via First Class Mail, postage prepaid, to:

Mary L. Kevlin, Esquire
Susan Schick, Esquire
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 Avenue of the Americas
New York, New York 10036



Debra L. Bondurant

shall not be communicated in any manner, either directly or indirectly, to any person or entity not qualified to receive disclosure of Confidential Material pursuant to this Protective Order. Any copies of such material, abstracts, summaries, or information derived therefrom, and any notes or other records regarding the contents thereof, shall also be deemed Confidential Material, and the same terms regarding confidentiality of these materials shall apply as to the originals. Confidential Material shall be used only for purposes directly related to this proceeding, and to any appeal therefrom, and for no other purpose whatsoever.

3. As used herein, the term "Qualified Persons" means:
 - (a) Counsel for the parties to this proceeding, including said counsel's associate attorneys, legal assistants, paralegals and secretarial and clerical employees (including shorthand reporters);
 - (b) In-house counsel for the parties, as well as members of their paralegal, secretarial or clerical staff, who are assisting or supervising in connection with this proceeding;
 - (c) Any independent experts or consultants not in the personal employ, regularly retained or otherwise related to Petitioner or Respondent, subject to the provisions contained in paragraph 4 hereof;
 - (d) the Board and its employees; and
 - (e) witnesses during the course of their depositions, provided that the witness agrees in writing to be bound by this Protective Order by executing a Confidentiality Undertaking as set forth in ¶ 4. Such witness shall not be permitted to retain possession of any Confidential Material following completion of his or her deposition.

4. Prior to disclosure of Confidential Material to any person under ¶ 3(c), counsel for the receiving party shall provide counsel for the producing party with the name and curriculum vitae of such person so as to permit the producing party to determine, in good faith, whether such person cannot or will not abide by the terms of this Protective Order or has a present conflict of interest in this matter. If the producing party does not object within ten (10) days of receiving the identification, then, prior to disclosure, the person identified shall execute a Confidentiality Undertaking in the form as follows:

The undersigned has read the Stipulated Protective Order entered in this proceeding and confirms: (1) that he/she shall fully abide by the terms thereof; (2) that he/she shall not disclose the Confidential Material to or discuss the Confidential Material with any person who is not authorized pursuant to the terms of said Protective Order to receive the disclosure thereof; and (3) that he/she shall not use such Confidential Material for any purpose other than for the purposes of this proceeding.

Counsel for the receiving party shall provide to counsel for the producing party copies of all Confidentiality Undertakings executed pursuant to this Protective Order.

5. Acceptance by a party of any information, document, or thing designated as Confidential shall not constitute a concession that the information, document or thing is confidential, privileged, subject to discovery, or admissible in evidence. Either party may contest a claim of confidentiality. In the event that the receiving party disagrees with the designation and marking by any producing party of any material as Confidential Material, the parties shall first try to resolve such dispute on an informal basis. If agreement cannot be reached between counsel, such dispute shall be presented to the Trademark Trial and Appeal Board for resolution.

6. The subject matter of all depositions given in connection with this action and the original and all copies of the transcripts of and exhibits to any such depositions shall be treated

as Confidential Material for a period ending thirty (30) days after the transcript is received by counsel for the producing party. Counsel wishing to designate portions of a deposition transcript or exhibits as Confidential Material may do so by making an appropriate statement at the time of such deposition or by notifying opposing counsel in writing on or before the 30th day after any such transcript is received by counsel. If no such designation is made, then the entire transcript and exhibits will be considered unprotected.

7. Any designation of Confidential Material which is inadvertently omitted during disclosure may be corrected by written notification to counsel for the receiving party, and such Material shall thereafter be treated as Confidential Material in accordance with the provisions of this Protective Order.

8. Where a discovery response, document, deposition transcript, or other tangible thing to be produced contains portions which have been designated Confidential, such Confidential Material shall be deleted therefrom before disclosing such Material to any person other than Qualified Persons as designated in Paragraph 3. Deletions made from any Material in accordance with the terms of this paragraph shall not affect the admissibility of any such Material in evidence in this proceeding.

9. If Confidential Material (or briefs, memoranda, declarations or other papers that disclose Confidential Material) is to be made of record in this proceeding, it shall be submitted to the Board in a separate sealed envelope or other sealed container bearing the caption of this proceeding, the cancellation number, an indication of the general nature of the contents of the envelope or container, and in large letters, the designation "CONFIDENTIAL, SUBJECT TO PROTECTIVE ORDER." Where possible, only Confidential portions of filings with the Board shall be filed under seal.

10. Within sixty (60) days after this proceeding is finally completed, including all appeals, counsel for all parties shall either return all Confidential Material and copies thereof to the producing party, or certify in writing that all such Confidential Material and copies have been destroyed. Counsel shall be responsible for ensuring that any experts who have received Confidential Material either have returned it to the producing party, or certified that such Confidential Material has been destroyed.

11. This Protective Order shall not preclude the parties or their attorneys from making any applicable claims of privilege during discovery or at trial, nor shall it preclude the filing of any motion with the Board for relief from a particular provision of this Protective Order or for additional protections not provided by this Protective Order.

12. By signing below, the parties and their counsel agree as between themselves to be immediately mutually bound by all of the obligations and restrictions applicable to them as set forth herein until such time as this Protective Order is entered and superseded by the Board or any reviewing Court.

THE PROMOTION IN MOTION
COMPANIES, INC.

By: Susan R. Schick
Mary L. Kevlin
Susan R. Schick
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Attorneys for Respondent

Dated: November 25, 2003

SAFEWAY INC.

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1940 Duke Street
Alexandria, Virginia 22302
(703) 413-3000
(703) 413-2220 (fax)

Attorneys for Petitioner

Dated: November 25, 2003

SO ORDERED, this ___ day of _____, 2003

TRADEMARK TRIAL AND
APPEAL BOARD