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16 UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA
18 WESTERN DIVISION

19 EPHRAIM TEKLE,) No. CV-01-03894-RSWL (SHx)
20 Plaintiff,) **PROTECTIVE ORDER**
21 v.)
22 UNITED STATES OF AMERICA,)
23 et al.,) The Honorable Stephen J. Hillman
24 Defendants.)
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1 Pursuant to the parties' Stipulation for Protective Order, 5 U.S.C. §§
2 552a(b)(11), 552(b)(2) and 552(b)(7)(E), and Rule 26 of the Federal Rules of Civil
3 Procedure, IT IS ORDERED that Federal Defendants are authorized to release to
4 Plaintiff's counsel and this Court the "described materials" set forth below. Such
5 disclosure of the "described materials" is subject to the following conditions:

6 1. The "described materials" consist of records from the Federal Law
7 Enforcement Training Center, a component of the Department of Homeland
8 Security, regarding the training of Defendants Keith Boden, David Hawkes and
9 Thomas Jankowski. Those documents have been bates numbered 0000001 through
10 0000647. Pursuant to 5 U.S.C. § 552(b)(2) and (b)(7)(E), the "described
11 materials" are exempt from disclosure under the Freedom of Information Act, as
12 "records related solely to the internal personnel rules and practices of an agency,"
13 and "records or information compiled for law enforcement purposes" that "disclose
14 techniques and procedures for law enforcement investigations or prosecutions,"
15 and/or "disclose guidelines for law enforcement investigations or prosecutions."
16 Improper disclosure of said documents "could reasonably be expected to risk
17 circumvention of the law."

18 2. For purposes of this Protective Order, the term "record" shall have the
19 same meaning as set forth in the Privacy Act, 5 U.S.C. § 552a(a)(4).

20 3. The "described materials" and any other government records subject to
21 this Protective Order shall be marked "PRODUCED SUBJECT TO PROTECTIVE
22 ORDER" or "SUBJECT TO PROTECTIVE ORDER" or contain a similar
23 marking, and may be used only for purposes of this litigation. For any government
24 records, such as computer data, whose medium makes such stamping
25 impracticable, the diskette case and/or accompanying cover letter shall be marked
26 "PRODUCED SUBJECT TO PROTECTIVE ORDER" OR "SUBJECT TO
27 PROTECTIVE ORDER" or contain a similar marking. Answers to interrogatories,
28 if any, that contain protected information derived from records subject to this

1 Protective Order also shall be marked “PRODUCED SUBJECT TO
2 PROTECTIVE ORDER” or “SUBJECT TO PROTECTIVE ORDER” or contain a
3 similar marking, and may be used only for purposes of this litigation. Except as
4 provided herein, no person having access to the records designated as subject to
5 this Order or the information therein shall make public disclosures of those records
6 or that information without further Order of the Court.

7 4. The “described materials” and any government documents or information
8 produced by Federal Defendants that are designated as subject to this Protective
9 Order shall be used by the Plaintiff or his representative(s) only for purposes of
10 litigating this case, including any subsequent appeals, and shall not be disclosed by
11 the Plaintiff or his representative(s) to the public or any other person or entity for
12 any reason other than for purposes of litigating this case, including any subsequent
13 appeals.

14 5. Except as otherwise ordered by this Court, the “described materials” and
15 any other government documents or information subject to this Protective Order
16 may be disclosed only to the following persons: (a) parties and counsel for the
17 parties in this action; (b) partners, associates, secretaries, paralegal assistants, and
18 employees of such counsel to the extent reasonably necessary to render
19 professional services in this action; (c) persons retained by the parties or their
20 counsel to assist in discovery, preparation for any hearing, or to serve as expert
21 witnesses, provided that such disclosure is reasonably and in good faith calculated
22 to aid in litigating this action; (d) persons whom counsel determine may be called
23 as witnesses in this case, **except that if either party seeks to show any**
24 **documents or information subject to the Protective Order to any current**
25 **inmate, or former inmate, both parties must consent to the disclosure in**
26 **writing.**

1 6. All individuals to whom documents or information subject to this
2 Protective Order are disclosed, other than the Court and Court personnel, shall be
3 informed of and shall agree with the terms of this Protective Order, and shall not
4 otherwise disclose the documents or information subject to this Protective Order to
5 the public or to any person or entity, and shall acknowledge in writing their having
6 read this Protective Order and their agreement to comply with the provisions of
7 this Order. Plaintiff’s counsel will retain copies of the acknowledgment forms
8 until such time as this litigation, including all appeals, is concluded. Should
9 Plaintiff or his counsel wish to disclose records or information subject to this
10 Protective Order to any persons other than those indicated in this paragraph and
11 paragraph 5, above, Plaintiff’s counsel must obtain Federal Defendants’ consent in
12 writing. If Federal Defendants do not consent to disclosure, then Plaintiff or his
13 counsel may, on motion, seek modification of the Protective Order from the Court,
14 utilizing Local Rule 37.

15 7. Each party reserves the right to move to modify the terms of this
16 Protective Order, and each party reserves the right to oppose any motion to modify
17 the terms of the Protective Order.

18 8. Unless the Court has previously ruled that a document or information is
19 not subject to this Protective Order, the “described materials” and any other
20 government documents or information subject to this Protective Order may be
21 presented to the Court only with an application to file the document or information
22 under seal, or by written stipulation of the parties. Should the parties seek to use
23 documents or information subject to this Protective Order in open Court or at trial,
24 orally or through documents, including as trial exhibits, or seek to file such
25 information as part of a public filing (e.g., a pleading, motion, exhibit or expert
26 report), the parties must first either stipulate in writing to the use of any such
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1 documents, or obtain an Order from the Court ruling that the information is
2 relevant and may be publicly disclosed.

3 9. Any protected documents and discovery responses, and all copies thereof,
4 produced in connection with this action must be returned by the Plaintiff or other
5 receiving party to Federal Defendants upon the conclusion of this case, including
6 any subsequent appeals. Within thirty days of the conclusion of this action and any
7 subsequent appeals, Plaintiff or Plaintiff's counsel or other person receiving
8 protected documents and discovery responses must certify in writing that all
9 protected documents and discovery responses, and all copies thereof, have been
10 returned to Federal Defendants. Within forty-five days of the termination of this
11 case, including any subsequent appeals, Plaintiff or Plaintiff's counsel or other
12 person receiving protected documents and discovery responses must also certify in
13 writing that any documents they or their attorneys or agents have created which
14 contain information protected hereunder derived solely from the protected
15 documents and discovery responses have been destroyed or redacted; provided,
16 however, that no party is required to destroy or redact any document that has been
17 filed with this Court or with a Court of Appeals in connection with this action.

18 10. Neither the United States Department of Justice, the United States
19 Attorney's Office, the Department of Homeland Security, the Federal Law
20 Enforcement Training Center, the Internal Revenue Service, nor any of its officers,
21 agents, employees, or attorneys, shall bear any responsibility or liability for any
22 disclosure of any documents obtained by Plaintiff's counsel under this Protective
23 Order, or of any information contained in such documents.

24 11. This Protective Order does not constitute any ruling on the question of
25 whether any particular document or category of information is properly
26 discoverable and does not constitute any ruling on any potential objection to the
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1 relevance, or admissibility of any record, other than objections based on the
2 Privacy Act.

3 12. Other than explicitly set forth herein, this Protective order does not
4 apply to any information or documents subject to a claim of privilege or other basis
5 of exclusion, and this Protective Order shall not be precedent for adopting any
6 procedure with respect to the disclosure of any such other information.

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8 SO ORDERED this 4th day of November, 2008.

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11 HONORABLE STEPHEN J. HILLMAN
12 MAGISTRATE JUDGE,
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