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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT

Ernest Straughter,  
Plaintiff,  
vs.  
Usher Raymond, IV et al.,  
Defendants.

No. CV 08-2170 CAS (CWx)  
Hon. Christina A. Snyder, District Judge  
Hon. Carla Woehrle, Magistrate Judge

**STIPULATED PROTECTIVE  
ORDER**  
**NOTE CHANGES MADE BY  
COURT**

Date of filing: April 1, 2008  
Trial Date: Not yet set

1           The parties to this action anticipate that the conduct of this matter may  
2 require disclosure of confidential information, including trade secrets, research,  
3 development, commercial, financial, and strategic information within the meaning  
4 of Fed.R.Civ.P. 26(c). Accordingly, to expedite the flow of discovery material,  
5 facilitate the prompt resolution of disputes over confidentiality, adequately protect  
6 material entitled to be kept confidential, and ensure that protection is afforded only  
7 to material so entitled, and based on good cause, it is, pursuant to the Court's  
8 authority under F.R.C.P. 26(c)(1)(G), and with the consent of the parties, hereby  
9 ORDERED:

10           1.     **Scope of Order.** This Order is intended to facilitate the parties'  
11 production of information and documents as part of voluntary disclosure and in  
12 response to discovery requests, as well as the production of information and  
13 documents by third parties in response to subpoena. Nothing in this order is to be  
14 construed to expand or limit the parties' or third parties' discovery obligations.  
15 This Order covers the production and use of all Discovery Materials in this action  
16 that constitute, contain or disclose, in whole or in part, information which the  
17 designating party deems to be "Confidential Information." All Documents,  
18 Pleadings, and testimony containing Confidential Information shall be protected in  
19 accordance with the terms of this Order. Although Discovery Materials and  
20 Pleadings that quote, summarize, or contain materials entitled to protection may be  
21 accorded status as Confidential Information, to the extent feasible these materials  
22 shall be prepared in such a manner that the Confidential Information is bound  
23 separately from that not entitled to protection.

24           2.     **General Definitions.** For purposes of this Order, the following  
25 terms have the following meanings:

26                   (a)    "Document" shall mean and include, without limitation,  
27 all materials, electronic information and tangible things defined as broadly as  
28 permitted under Federal Rule of Civil Procedure 34.

1 (b) "Discovery Materials" shall mean and include, without  
2 limitation, Documents, responses to interrogatories, requests for admissions, or  
3 other discovery requests, physical objects, samples, CD-ROMs, tapes, digital files  
4 (e.g., MP3 files) and other items, deposition transcripts and exhibits thereto, and  
5 information provided by or on behalf of the Parties or any third party pursuant to  
6 subpoena or otherwise created or included in the course of discovery.

7 (c) "Pleadings" shall mean and include, without limitation,  
8 all papers, motions, briefs, affidavits, declarations, exhibits, etc., filed with the  
9 Court.

10 (d) "Party" or "Parties" shall mean and include the parties to  
11 this litigation and their respective current and former officers, employees, agents,  
12 affiliates and subsidiaries.

13 (e) "Designating Party" shall mean the Party or Parties, or  
14 any third party producing documents or information pursuant to subpoena,  
15 designating Discovery Material as "Confidential Information."

16 3. **Confidential Information Defined.** For purposes of this Order,  
17 "Confidential Information" shall mean and include any information (regardless of  
18 how it is generated, stored, or maintained), including Documents, Discovery  
19 Materials and Pleadings, that contains information within the scope of Federal Rule  
20 of Civil Procedure 26(c), California Civil Code Section 3426 *et seq.*, or which is  
21 otherwise a trade secret, proprietary, confidential commercial or business  
22 information. ~~or otherwise confidential or private.~~ "Confidential Information" shall  
23 not include Documents that have been produced before entry of this protective  
24 order.

25 4. **Designating Protected Material.** All designations shall be  
26 made in good faith by the Designating Party and made at the time of disclosure,  
27 production, or tender, provided that the inadvertent failure to so designate does not  
28 constitute a waiver of such claim, and a producing party may so designate the

1 information after such information has been produced, with the effect that such  
2 information is thereafter subject to the protections of this Order.

3 (a) **Designation of Discovery Materials Other Than**  
4 **Depositions or Other Pre-Trial Testimony.** Documents designated  
5 “Confidential” shall be so marked by affixing the legend “CONFIDENTIAL” or  
6 similar confidential designation on each page containing any Confidential  
7 Information (or in the case of computer medium or other tangible item on the item’s  
8 label and/or cover) to which the designation applies.

9 (b) **Designation of Deposition Testimony.** All depositions  
10 taken in this case and the transcripts thereof shall automatically be treated as  
11 Confidential Information for 20 days after receipt of the transcript. This 20-day  
12 period will begin running the day after the transcript is received by counsel for the  
13 party defending the deposition and will conclude at the end of the 20th consecutive  
14 day (including weekends and holidays). Any confidentiality designation must be  
15 sent to opposing counsel by the end of the 20th day. During the deposition or  
16 during this 20-day time period, any Party or third party deponent may designate the  
17 deposition or any portion thereof as Confidential Information. Upon delivery of  
18 such designation to the other Party or Parties, the entire deposition transcript or the  
19 designated portion thereof shall be treated as Confidential Information subject to  
20 this Stipulation. If any deposition transcript or portion thereof has not been  
21 designated as Confidential Information by the expiration of the 20-day period after  
22 receipt of the transcript, that deposition or portion will no longer be Confidential  
23 Information.

24 5. **Basic Disclosure Principles.** Neither the Parties nor their  
25 counsel shall permit disclosure of Confidential Information to anyone except as  
26 provided by this Order, and only after the conditions stated in this Order have been  
27 met.

28 6. **Disclosure of Confidential Information.** Confidential

1 Information may not be disclosed to any person except:

2 (a) Any Party to this action, including the Party's counsel  
3 (whether in house or outside counsel), managers and Information Technology staff;

4 (b) Counsel of record for the Parties in this action, including  
5 their paralegals and clerical staff, experts and consultants;

6 (c) Experts (whether consulting or testimonial) in this action  
7 to whom disclosure is reasonably necessary to the conduct this action, provided that  
8 experts shall not have access to Confidential Information without having first read,  
9 acknowledged, and agreed to be bound by this Order by executing the Declaration  
10 attached as Exhibit A;

11 (d) The Court and its personnel;

12 (e) Court reporters engaged for depositions, hearings or trial;

13 (f) Witnesses in this action to the extent necessary for the  
14 conduct of this litigation and who have first signed the Agreement to be Bound by  
15 Protective Order attached as Exhibit A, subject to the terms of Paragraph 10;

16 (g) The author(s) or any recipient of the document or the  
17 original source of the information in any document; and

18 (h) Professional vendors that provide litigation support  
19 services (*e.g.*, photocopying, videotaping, translating, preparing exhibits or  
20 demonstrations, etc.) and their employees who have first signed the Agreement to  
21 be Bound by Protective Order attached as Exhibit A.

22 7. **Use of Discovery Material.** Confidential Information produced  
23 in this litigation shall be used for purposes of litigating and/or defending this action  
24 only, and for no other purpose. The persons or entities identified in Section 6,  
25 above, to whom Confidential Information is disclosed pursuant to this Order shall  
26 not make any copies of or use such Confidential Information for any purpose,  
27 whatsoever, except those related to this action. Nothing in this Order shall prohibit  
28 any person or entity owning rights in or to Confidential Information from using

1 such information in any manner consistent with such ownership rights, including,  
2 for example, the use of Confidential Information maintained by the Parties in the  
3 ordinary course of the Parties' business, though any prohibition or restriction on  
4 any such use of such Confidential Information in any previous order of the Court  
5 shall continue to govern use of such information. This Order shall not limit the  
6 right of any Party to assert any claim in this or any other action.

7           8.     **Offering Materials into Evidence.** If in connection with any  
8 motion or other proceeding in this action or Related Actions, any Party intends to  
9 offer into evidence, reference, or attach as exhibits to any Pleading any Documents  
10 or other materials that would reveal or tend to reveal Confidential Information, such  
11 evidence shall be redacted to remove all Confidential Information that is not  
12 reasonably necessary for the Court to understand the purpose of the Document as  
13 described in the Pleading and to effect the reasonable purpose of the offering party  
14 in submitting the document.

15           9.     **Filing of Materials Containing Confidential Information.**  
16 Without written permission from the Designating Party or a court order secured  
17 after appropriate notice to all interested persons, a party may not file in the public  
18 record in this action any Confidential Information. A party that seeks to file under  
19 seal any Confidential Information must comply with Civil Local Rule 79-5 and all  
20 orders of this Court.

21           10.    **Filing Under Seal.** Any Confidential Information filed with the  
22 Court shall be **submitted for filing** ~~filed~~ in a sealed envelope bearing the  
23 designation "Confidential: Subject to Protective Order," **together with a proposed**  
24 **order**, and shall otherwise comply with the requirements of Local Rule 79-5 and all  
25 orders of this Court.

26           11.    **Right To Redact.** Notwithstanding the right to designate  
27 information as Confidential, the Parties may redact from Discovery Material  
28 information that would qualify as Confidential Information under this Order, but

1 which is irrelevant or otherwise not responsive to the discovery request giving rise  
2 to production of the Discovery Material, subject to paragraph 18 below.

3           12.    **Duration.** This Order shall continue to be binding throughout  
4 and after the conclusion of this action, including any appeal thereof. This Order, as  
5 an Agreement, shall remain in effect until all Confidential Information is returned  
6 to the Designating Party or destroyed, as provided below. Within thirty (30) days  
7 after termination of this Action by dismissal, final non-appealable judgment or  
8 otherwise, each Party shall return to counsel for the Designating Party all  
9 information designated Confidential Information under this Order, including all  
10 copies, prints, excerpts, and other reproductions of said information, however  
11 generated or maintained. In the alternative, counsel receiving Confidential  
12 Information may supervise the destruction of all Confidential Information,  
13 including all copies, prints, excerpts, and other reproductions of said information,  
14 however generated or maintained. Counsel shall then advise all parties' counsel in  
15 writing that all Confidential Information, including all copies, prints, excerpts, and  
16 other reproductions of said information, however generated or maintained, have  
17 been destroyed or returned.

18           13.    **Limiting Disclosure.** In disclosing Confidential Information to  
19 persons as permitted by paragraph 6 of this Order, counsel of record shall make all  
20 reasonable efforts to limit disclosure to the minimum number of persons necessary  
21 to conduct this action.

22           14.    **Access to Additional Person(s).** To the extent a Party decides  
23 that in order to understand or evaluate any Confidential Information the assistance  
24 of person(s) not otherwise entitled to access to Confidential Information is  
25 necessary, that party may request permission of the Designating Party to show such  
26 information to the specifically identified additional person(s). The Party receiving  
27 the request shall respond promptly and shall not unreasonably withhold consent. If  
28 permission is granted and if that permission is confirmed in a writing signed by the

1 Designating Party or its, his or their counsel, the Confidential Information may be  
2 shown to the additional person(s), subject to the requirement that such person(s)  
3 agree to be bound by the terms of this Order and Agreement. Any disclosure of  
4 Confidential Information under this paragraph shall not result in a waiver or  
5 termination of any of the rights and obligations to any other Party or person under  
6 this Order. If permission is denied, the requesting Party may file an application *in*  
7 *camera* and under seal with the Court referencing the Confidential Information to  
8 be disclosed and, where appropriate, stating with particularity the reason or reasons  
9 assistance is needed, and naming the person to whom the Confidential Information  
10 is to be disclosed to obtain assistance.

11           15.    **Challenges to Confidential Designation.** In the event the  
12 recipient party disagrees with any designation of confidentiality, the Parties and/or  
13 applicable third parties shall attempt to resolve such dispute on an informal basis.  
14 If the dispute is not resolved informally, the recipient party, by motion pursuant to  
15 the Joint Stipulation process and/or ex parte application, as proscribed in Local  
16 Rule 37, may contest the confidential designation. The **designating recipient** party  
17 shall have the burden of establishing that the Discovery Material is ~~not~~  
18 Confidential. Pending resolution of the motion, the disputed material will continue  
19 to be treated as designated (*i.e.*, Confidential). If the Court determines that any  
20 materials are not entitled to confidential treatment, confidentiality will nonetheless  
21 be maintained for fifteen (15) days subsequent to the Court's decision unless the  
22 Court, upon motion and for good reason shown, shall reduce or lengthen the time.

23           16.    **Declassification.** The restrictions on disclosure and use of  
24 Confidential Information set forth herein shall not continue to apply to information,  
25 which, at the time of disclosure, or thereafter, becomes a part of the public domain  
26 by publication or otherwise, other than a result of a wrongful act or failure to act on  
27 the part of the Party claiming this exclusion. However, the restrictions shall  
28 continue to apply if such publication or other disclosure results from criminal,



1 tortious or otherwise unlawful acts or omissions. A Party seeking to declassify  
2 material designated as Confidential Information may move the Court for a ruling  
3 that the material is not entitled to such status and protection.

4 17. **Right to Assert Other Objections.** This Order shall not be  
5 construed as requiring any Party or third party responding to a subpoena to produce  
6 information or documents which are privileged or otherwise protected from  
7 discovery by the Federal Rules of Civil Procedure. Nothing herein shall be  
8 construed or applied to affect the rights of any Party or third party to discovery or to  
9 assert any privilege or objection, or to prohibit any Party or third party from  
10 seeking such further provisions or relief as it deems necessary or desirable  
11 regarding this Order or the matter of confidentiality.

12 18. **Use During Trial.** This Order is intended to govern the  
13 exchange and use of materials, information and Documents during discovery, trial  
14 preparation, and post-trial proceedings. Questions regarding the use of Confidential  
15 Information during the trial of this action, if any, will be addressed by the Court at a  
16 later time prior to or during trial.

17 19. **Subpoena or Order.** If a Party is served with a subpoena or an  
18 order issued in other litigation that would compel disclosure of any information or  
19 items designated in this action as Confidential, counsel for the receiving party must  
20 so notify counsel for the Designating Party in writing immediately, and in no event  
21 more than five court days after receiving the subpoena or order. Counsel for the  
22 receiving party also must inform in writing the party who caused the subpoena or  
23 order to issue in the other litigation that some or all the material covered by the  
24 subpoena or order is the subject of this Order.

25 The purpose of imposing these duties is to alert the interested parties to  
26 the existence of this Order and to afford the Designating Party in this case an  
27 opportunity to try to protect its confidentiality interests in the court from which the  
28 subpoena or order issued. Nothing in these provisions should be construed as

1 authorizing or encouraging a receiving party in this action to disobey a lawful  
2 directive from another court.

3           20. **Inadvertent Production.** If a Party through inadvertence  
4 produces or provides discovery that it believes is subject to a claim of attorney-  
5 client privilege, common interest privilege, or work product immunity, the  
6 producing party may give written notice to the receiving party that the Document is  
7 subject to a claim of attorney-client privilege, common interest privilege, or work  
8 product immunity and request that the Document be returned to the producing  
9 party. The receiving party shall immediately return to the producing party all  
10 copies of such Document and shall return or destroy all excerpts and summaries  
11 thereof. Return of the document by the receiving party shall not constitute an  
12 admission or concession, or permit any inference, that the returned Document is, in  
13 fact, properly subject to a claim of attorney-client privilege, common interest  
14 privilege or work product immunity, nor shall it foreclose the receiving party from  
15 moving for an order that such Document has been improperly designated as subject  
16 to a claim of attorney-client privilege, common interest privilege, or work product  
17 immunity or should be produced for reasons other than a waiver caused merely by  
18 the inadvertent production. The inadvertent disclosure of any privileged documents  
19 shall not be deemed a waiver of that privilege as to any other Documents, testimony  
20 or evidence.

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21. **Enforcement.** This Order and Agreement may be enforced by an order of specific performance, as well as any claim for damages. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

SO ORDERED:

DATED this 12th day of August, 2009.

/s/ Carla M. Woehrle  
Magistrate Judge

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EXHIBIT A  
ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address],  
declare under penalty of perjury that I have read and understand the Stipulated  
Protective Order that was entered by the United States District Court for the Central  
District of California in the case of *Straughter v. Raymond et al.*, Case No. CV 08-  
2170 CAS (CWx). I agree to comply with and to be bound by all the terms of this  
Stipulated Protective Order and I understand and acknowledge that failure to  
comply could expose me to sanctions and punishment in the nature of contempt. I  
solemnly promise that I will not disclose in any manner any information or item  
that is subject to this Stipulated Protective Order to any person or entity except in  
strict compliance with the provisions of this Order. I further agree to submit to the  
jurisdiction of the United States District Court for the Central District of California  
for the purpose of enforcing the terms of this Stipulated Protective Order, even if  
such enforcement proceedings occur after termination of this action.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_