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11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA

13 HAMMITT, INC., a California Corporation,

14 Plaintiff,

15 vs.

16 BECARRO INTERNATIONAL, LTD.
 17 dba SONDRAROBERTS.COM, a New
 18 York Corporation; ROBERT CAMCHE,
 19 an individual; and DOES 1-10, inclusive,

20 Defendant.

CASE NO. CV14-06654 JAK (AJWx)

PROTECTIVE ORDER

[DISCOVERY MATTER]

Hon. Andrew J. Wistrich

21 BECARRO INTERNATIONAL, LTD., a
 22 New York Corporation,

23 Counterclaimant,

24 vs.

25 HAMMITT, INC., a California
 26 Corporation,

27 Counterdefendant.

28 1. Purposes and Limitations. The parties acknowledge that disclosure and
 discovery activity in this litigation are likely to involve production of information
 involving trade secrets, confidential business, financial, or proprietary information, or

1 information subject to protection under California or federal law for which special
2 protection from public dissemination or disclosure (and from use for any purpose other
3 than prosecuting and defending this matter) is warranted. Thus, this Order is
4 warranted and required to prevent and/or limit disclosure of such information and/or
5 documents that may be exchanged and/or produced in this case. The parties further
6 acknowledge that this Order does not confer blanket protections on all disclosures or
7 responses to discovery and that the protection it affords extends only to the limited
8 information or items that are entitled to treatment as “Confidential” or as “Highly
9 Confidential – Attorneys’ Eyes Only” information or material.

10 2. A party may designate as “CONFIDENTIAL” any material that is
11 considered in good faith to contain or disclose commercially sensitive and/or
12 proprietary information not otherwise known or available to the public or information
13 that the party is under a duty to preserve as confidential under an agreement with or
14 other obligation to another person/entity.

15 3. A party may designate as “HIGHLY CONFIDENTIAL-ATTORNEYS’
16 EYES ONLY” any material that contains or discloses trade secrets and disclosure
17 would provide a competitive advantage to the other parties. Such documents would
18 include but are not limited to pricing, financial or planning information; forward-
19 looking strategic plans and any trade secret or other sensitive commercial, research or
20 technical information that the producing party believes in good faith should be
21 afforded the highest level of confidentiality by the Court.

22 4. Any party may designate as “Confidential” or as “Highly Confidential –
23 Attorneys’ Eyes Only” (by stamping the relevant page(s) or as otherwise set forth
24 below) any document or discovery response that the party considers in good faith to
25 contain information involving trade secrets, confidential business, financial, or
26 proprietary information, or information subject to protection under California or
27 federal law. Where a document or response consists of more than one page, the first
28 page and each page on which such confidential information appears shall be so

1 designated. Any document previously produced by a party in the course of this lawsuit
2 shall be subject to the terms of this Order if the party originally designated the
3 document as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only.”

4 5. A party may designate information disclosed during a deposition or in
5 response to written discovery as “Confidential” or “Highly Confidential – Attorneys’
6 Eyes Only” by so indicating in the responses or on the record at the deposition and
7 requesting the preparation of a separate transcript of such material. Additionally, a
8 party may designate in writing, within ten (10) business days after receipt of discovery
9 responses or of the deposition transcript for which the designation is proposed, that
10 specific pages of the transcript and/or specific responses be treated as “Confidential”
11 or “Highly Confidential – Attorneys’ Eyes Only”. Any other party may object to such
12 proposal, in writing or on the record. If an objection is made, the parties shall follow
13 the procedures described in Paragraph 13 below. After any designation is made
14 according to the procedure set forth in this paragraph, the designated documents or
15 information shall be treated according to the designation until the matter is resolved
16 according to the procedures described in Paragraph 13 below, and counsel for all
17 parties shall be responsible for marking all previously unmarked copies of the
18 designated material in their possession or control with the specified designation.

19 6. All information produced or exchanged in the course of this case (other
20 than information that is publicly available) shall be used by the party or parties to
21 whom the information is produced solely for the purpose of this case.

22 7. Except with the prior written consent of the other parties, or upon prior
23 order of this Court obtained upon notice to opposing counsel, information designated
24 as “Confidential” shall not be disclosed to any person other than the following
25 person(s):

26 a. Counsel for the respective parties to this litigation, including in-
27 house counsel for any party to this litigation;

1 b. Employees of such counsel deemed necessary by counsel for the
2 prosecution or defense of this litigation;

3 c. Any officer or employee of Hammitt, Inc. directly involved in the
4 facts and circumstances underlying this case whose access to Confidential information
5 is necessary for the prosecution or defense of this litigation; any officer or employee of
6 Becarro International, Ltd. directly involved in the facts and circumstances underlying
7 this case whose access to Confidential information is necessary for the prosecution or
8 defense of this litigation; provided that each such person shall execute a copy of the
9 Certification attached to this Order before being shown or given any information.
10 Copies of all Certifications shall be retained by counsel for the party so disclosing the
11 information designated “Confidential” and made available for inspection by opposing
12 counsel during the pendency or after the termination of the action, upon good cause
13 shown;

14 d. Consultants or expert witnesses retained for the prosecution or
15 defense of this litigation, provided that each such person shall execute a copy of the
16 Certification attached to this Order before being shown or given any information.
17 Copies of all Certifications shall be retained by counsel for the party so disclosing the
18 information designated “Confidential” and made available for inspection by opposing
19 counsel during the pendency or after the termination of the action, upon good cause
20 shown;

21 e. Any authors or known recipients of the information designated
22 “Confidential”;

23 f. The Court, court personnel, and court reporters; and

24 g. Witnesses. A witness shall sign the Certification before being
25 shown a confidential document. Information designated “Confidential” may be
26 disclosed to a witness who will not sign the Certification only in a deposition at which
27 the party who designated the information is represented and has been given notice that
28 information produced by the party may be used. At the request of any party, the

1 portion of the deposition transcript involving such information shall be designated
2 “Confidential” pursuant to Paragraph 5 above. Witnesses shown information
3 designated “Confidential” shall not be allowed to retain copies.

4 8. Except with the prior written consent of the other parties, or upon prior
5 order of this Court obtained upon notice to opposing counsel, certain information
6 designated as “Highly Confidential – Attorneys’ Eyes Only” shall not be disclosed to
7 any person other than the following person(s):

- 8 a. Outside Counsel for the respective parties to this litigation;
- 9 b. Employees of such counsel deemed necessary by counsel for the
10 prosecution or defense of this litigation;
- 11 c. Any authors or known recipients of the information designated
12 “Highly Confidential – Attorneys’ Eyes Only”; and
- 13 d. The Court, court personnel, and court reporters.

14 9. Any persons receiving information designated “Confidential” or “Highly
15 Confidential – Attorneys’ Eyes Only” shall not reveal or discuss such information with
16 any person who is not entitled to receive such information, except as set forth in this
17 Protective Order.

18 10. A party that seeks to disclose to an Expert or consultant any information
19 that has been designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
20 ATTORNEYS’ EYES ONLY” first must make a written request to the Designating
21 Party that: (i) sets forth the full name of the Expert or consultant and the city and state
22 of his or her primary residence; (ii) attaches a copy of the current resume of the Expert
23 or consultant; (iii) identifies the current employer of the Expert or consultant; (iv)
24 identifies each person or entity from whom the Expert or consultant has received
25 compensation or funding for work in his or her areas of expertise or to whom the
26 Expert or consultant has provided professional services, including in connection with a
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1 litigation, at any time during the preceding five years¹; and (v) identifies (by name and
2 number of the case, filing date, and location of court if available) any litigation in
3 connection with which the Expert or consultant has offered expert testimony, including
4 through a declaration, report, or testimony at a deposition or trial, during the preceding
5 five years.

6 11. A Party that receives a written request for disclosure to an Expert or
7 consultant under Paragraph 10 may object to the disclosure within 7 days of receiving
8 the request. Any such objection must set forth in detail the grounds on which it is
9 based. A Party that receives a timely written objection must meet and confer with the
10 Designating Party to try to resolve the matter by agreement within 5 days of the written
11 objection. If no agreement is reached, the Party seeking to make the disclosure to the
12 Expert may file a motion as provided in Local Civil Rule 7 (and in compliance with
13 Local Civil Rule 79-5) seeking permission from the court to do so. Any such motion
14 must describe the circumstances with specificity, set forth in detail the reasons why the
15 disclosure to the Expert or consultant is reasonably necessary, assess the risk of harm
16 that the disclosure would entail, and suggest any additional means that could be used to
17 reduce that risk. In addition, any such motion must be accompanied by a competent
18 declaration describing the Parties' efforts to resolve the matter by agreement (i.e., the
19 extent and the content of the meet and confer discussions) and setting forth the reasons
20 advanced by the Designating Party for its refusal to approve the disclosure. In any
21 such proceeding, the Party opposing disclosure to the Expert or consultant shall bear
22 the burden of proving that the risk of harm that the disclosure would entail (under the
23 safeguards proposed) outweighs the Receiving Party's need to disclose information

24 _____
25 ¹ If the Expert or consultant believes any of this information is subject to a
26 confidentiality obligation to a third-party, then the Expert or consultant should provide
27 whatever information the Expert or consultant believes can be disclosed without
28 violating any confidentiality agreements, and the Party seeking to disclose to the
Expert or consultant shall be available to meet and confer with the Designating Party
regarding any such engagement.

1 designated as “Confidential” and/or “Highly Confidential – Attorney’s Eyes Only” to
2 the Expert or consultant.

3 12. For any documents, pleadings, applications and/or motions submitted to
4 the Court by any party that attach, quote from, or refer to the substance of documents
5 or materials containing or consisting of “Confidential” or “Highly Confidential –
6 Attorneys’ Eyes Only” information, the submitting party shall comply with the
7 procedures for filing under seal set forth in Rule 79.5 of the Local Civil Rules of the
8 United States District Court for the Central District of California and in Judge David
9 O. Carter’s Individual Rules of Practice.

10 13. Nothing in this Order shall prevent a party from using any “Confidential”
11 or “Highly Confidential – Attorneys’ Eyes Only” material at trial or at a hearing. In
12 advance of or at any such hearing or trial, a party or non-party may seek available
13 relief from the Court, including relief limiting disclosure and the manner thereof, of
14 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” material during the
15 course of any such proceeding to persons authorized to receive disclosure by this
16 Order.

17 14. Any party may voluntarily disclose to others without restriction any
18 information that was designated by that party alone as “Confidential” or “Highly
19 Confidential – Attorneys’ Eyes Only,” although a document may lose its confidential
20 status if it is made public.

21 15. If a party contends that any designated material is not entitled to
22 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” treatment, such party
23 may at any time give written notice to the party or non-party who designated the
24 material as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only.” The
25 parties shall thereafter have ten (10) days to meet and confer in good faith in an
26 attempt to resolve the dispute regarding the challenged designations. The party
27 challenging the designation may then bring a motion to challenge the designation of
28 the material in question in compliance with Rule 37-2 of the Local Civil Rules of the

1 United States District Court for the Central District of California within fourteen (14)
2 days of the parties' conference of counsel concerning said motion. Unless otherwise
3 proscribed by law, the party or non-party that designated the material "Confidential" or
4 "Highly Confidential – Attorneys' Eyes Only" has the burden of establishing that the
5 document is entitled to protection. The material shall be treated as "Confidential" or
6 "Highly Confidential – Attorneys' Eyes Only," as originally designated, until and
7 unless the Court determines that it is not entitled to such protection.

8 16. Notwithstanding any challenge to the designation of material as
9 "Confidential" or "Highly Confidential – Attorneys' Eyes Only," all designated
10 documents shall be treated as such and shall be subject to the provisions of this Order
11 unless and until one of the following occurs:

12 a. The party or non-party who claims that the material is
13 "Confidential" or "Highly Confidential – Attorneys' Eyes Only" withdraws such
14 designation in writing; or

15 b. The Court rules the material is not properly designated as
16 "Confidential" or "Highly Confidential – Attorneys' Eyes Only."

17 17. If a Receiving Party learns that, by inadvertence or otherwise, it has
18 disclosed "Confidential" or "Highly Confidential – Attorneys' Eyes Only" to any
19 person or in any circumstance not authorized under this Protective Order, the
20 Receiving Party must immediately (a) notify in writing the Designating Party of the
21 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of
22 the "Confidential" or "Highly Confidential – Attorneys' Eyes Only", and (c) inform
23 the person or persons to whom unauthorized disclosures were made of all the terms of
24 this Order, and (d) request such person or persons to execute the "Certification" to be
25 bound by Protective Order that is attached hereto.

26 18. When a Producing Party gives notice to Receiving Party that certain
27 inadvertently produced material is subject to a claim of privilege or other protection,
28 the obligations of Federal Rule of Civil Procedure 26(b)(5)(B). Pursuant to Federal

1 Rule of Evidence 502(b) and (d) any inadvertent disclosure of privileged information
2 shall not waive privilege.

3 19. The terms of this Order are applicable to information produced by a Non-
4 Party in this action and designated as “Confidential” or “Highly Confidential –
5 Attorneys’ Eyes Only.” Such information produced by Non-Parties in connection with
6 this litigation is protected by the remedies and relief provided by this Order. Nothing
7 in these provisions should be construed as prohibiting a Non-Party from seeking
8 additional protections.

9 20. All provisions of this Order restricting the communication or use of
10 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” material or
11 information shall continue to be binding after the conclusion of this action, unless
12 otherwise agreed or ordered. Upon conclusion of the litigation, including any appeals,
13 a party in the possession of “Confidential” or “Highly Confidential – Attorneys’ Eyes
14 Only” material or information, other than that which is contained in pleadings,
15 correspondence, and deposition transcripts, shall either (a) return such documents no
16 later than thirty (30) days after conclusion of this action to counsel for the party or
17 non-party who provided such information, or (b) destroy such documents within the
18 time period upon consent of the party who provided the information and certify in
19 writing within thirty (30) days that the documents have been destroyed.

20 21. Nothing in this Protective Order shall be deemed to limit, prejudice, or
21 waive any right of any party or person (a) to resist or compel discovery with respect to,
22 or to seek to obtain additional or different protection for, material claimed to be
23 protected work product or privileged under California or federal law, material as to
24 which the producing party claims a legal obligation not to disclose, or material not
25 required to be provided pursuant to California law; (b) to seek to modify or obtain
26 relief from any aspect of this Protective Order; (c) to object to the use, relevance, or
27 admissibility at trial or otherwise of any material, whether or not designated in whole
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1 or in part as Confidential material governed by this Protective Order; or (d) otherwise
2 to require that discovery be conducted according to governing laws and rules.

3 22. If a Party is served with a subpoena or a court order issued in other
4 litigation or investigation that compels disclosure of any information or items
5 designated in this action as “Confidential” or “Highly Confidential – Attorneys’ Eyes
6 Only” that Party must:

7 (a) promptly notify in writing the Designating Party. Such notification shall
8 include a copy of the subpoena or court order;

9 (b) promptly notify in writing the party who caused the subpoena or order to
10 issue in the other litigation that some or all of the material covered by the subpoena or
11 order is subject to this Protective Order. Such notification shall include a copy of this
12 Protective Order; and

13 (c) cooperate with respect to all reasonable procedures sought to be pursued by
14 the Designating Party whose Protected Material may be affected.

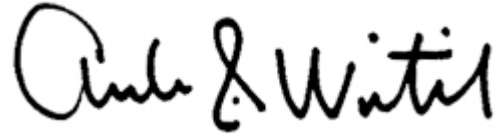
15 If the Designating Party timely seeks a protective order, the Party served with
16 the subpoena or court order shall not produce any information designated in this action
17 as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” before a
18 determination by the court from which the subpoena or order issued, unless the Party
19 has obtained the Designating Party’s permission.

20 23. Any witness or other person, firm, or entity from which discovery is
21 sought may be informed of and may obtain the protection of this Order by written
22 advice to the parties’ respective counsel or by oral advice at the time of any deposition
23 or similar proceeding.

24 24. Designation of material as “Confidential” or “Highly Confidential –
25 Attorneys’ Eyes Only” on the face of such material shall have no effect on the
26 authenticity or admissibility of such material at trial.

1 25. This Protective Order shall not affect any contractual, statutory or other
2 legal obligation or the rights of any party or person with respect to “Confidential” or
3 “Highly Confidential – Attorneys’ Eyes Only” material designated by that Party.
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5 **IT IS SO ORDERED.**



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7 Date: ____March 17, 2015

8 Honorable Andrew J. Wistrich
9 **United States Magistrate Judge**

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CERTIFICATION

I hereby certify my understanding that information designated as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” is being provided to me pursuant to the terms and restrictions of the Protective Order dated _____, in *Hammitt, Inc. v. Becarro International, Ltd., et al.*, Case No. CV14-06654 JAK (AJWx) (C.D. Cal.). I have been given a copy of the Protective Order and read it. I agree to be bound by the Order. I will not reveal the information designated as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” to anyone, except as allowed by the Protective Order. I will maintain all such information designated as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” – including copies, notes, or other transcriptions made there from – in a secure manner to prevent unauthorized access to it. No later than thirty (30) days after the conclusion of this action, I will return the information designated as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” – including copies, notes, or other transcriptions made from that information – to the counsel who provided me with the information designated as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only”. I hereby consent to the jurisdiction of the United States District Court of the Central District of California for the purpose of enforcing the Protective Order.

DATED: _____

Signature

Printed name