

1 EDWARD G. BURG (Bar No. CA 104258)
 E-mail: eburg@manatt.com
 2 GEORGE M. SONEFF (Bar No. CA 117128)
 E-mail: gsoneff@manatt.com
 3 VIRAL MEHTA (Bar No. CA 261852)
 E-mail: vmehta@manatt.com
 4 MANATT, PHELPS & PHILLIPS, LLP
 11355 West Olympic Boulevard
 5 Los Angeles, CA 90064-1614
 Telephone: (310) 312-4000
 6 Facsimile: (310) 312-4224

7 *Attorneys for Defendants*
 Christopher W. Metcalf, Joseph P. Cordner,
 8 Marialice Cordner, Scott R. Descher and
 Anna R. Descher, as Trustees of the
 9 Descher Family Trust, Hahm International, Inc.,
 and Levand Steel & Supply Corporation

11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,
 15 Plaintiff,
 16 vs.

17 1003.58 ACRES OF LAND,
 18 MORE OR LESS, SITUATE IN
 SAN BERNARDINO COUNTY,
 CALIFORNIA, AND
 19 CHRISTOPHER W. METCALF,
 JOSEPH P. CORDNER,
 20 MARIALICE CORDNER,
 SCOTT R. DESCHER AND
 21 ANNA R. DESCHER, TRUSTEES
 OF THE DESCHER FAMILY
 22 TRUST, *et al.*,
 23 Defendants.

Case No. 5:16-cv-1014 VAP (SPx)

Hon. Sheri Pym
 Courtroom 3/4 – 3rd Floor

STIPULATED PROTECTIVE ORDER

Complaint Filed: May 17, 2016
 Trial Date: February 6, 2018

[NOTE CHANGE MADE BY THE COURT TO ¶ 11]

1 Information, this Stipulated Protective Order (“**Protective Order**”) shall govern
2 discovery in this action once such stipulation is signed by all the parties and entered
3 as an order of the Court, as follows:

4 1. Any party or nonparty producing any documents, communications,
5 information, testimony, transcripts, or other tangible things (hereinafter
6 “**Materials**”) may designate such Materials as “Confidential Information” subject
7 to the terms set forth below.

8 2. “**Confidential Information**” shall mean and refer to Materials that
9 have not been made public and the disclosure of which may cause harm to the
10 person or entity from which the Materials are obtained or a third party, including
11 but not limited to Materials that are considered in good faith to constitute or contain
12 trade secrets entitled to protection under Fed. R. Civ. P. 26(c); confidential
13 information, including private information protected under state and federal
14 statutes; or confidential or private business, commercial, proprietary, or technical
15 information. This shall in no way be construed to make confidential matters which
16 are (a) already known to the other party; (b) a matter of public record; or
17 (c) subsequently obtained from an independent non-confidential or non-privileged
18 source.

19 (a) A designation of any Materials as Confidential Information by a
20 party shall constitute a certification to the Court and to the parties to the action that
21 such Materials are believed in good faith to be confidential within the meaning of
22 this Protective Order, and where applicable, that such designation is believed in
23 good faith to adequately protect privacy under applicable state and federal statutes
24 or private agreements.

25 (b) Only Qualified Persons may view or receive Confidential
26 Information in accordance with this Protective Order. “**Qualified Persons**” shall
27 mean and refer to, and is expressly limited to:
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- 1 i. Counsel for any party to the action and their personnel,
2 including paralegals, clerical staff, secretarial staff and other support personnel;
- 3 ii. The parties to this action, including their respective
4 agents, managers, accountants, officers, employees, shareholders and/or in-house
5 counsel.
- 6 iii. Any persons who are authors, addressees or prior
7 recipients as set forth on the face of Materials designated as Confidential
8 Information;
- 9 iv. Expert witnesses or consultants retained or employed by
10 the parties or their respective attorneys for purposes of this action who have
11 complied with Paragraph 3 below, and the personnel of such expert witnesses or
12 consultants;
- 13 v. Any court presiding over this action and court personnel;
- 14 vi. Court reporters, stenographers and videographers who are
15 retained to transcribe or videotape any depositions in this action;
- 16 vii. Any arbitrators or mediators who are assigned or retained
17 to preside over any proceedings in this action, and the personnel of such arbitrators
18 or mediators;
- 19 viii. Third-party witnesses at any deposition or other pre-trial
20 proceeding in this action whose testimony necessitates the disclosure to the witness
21 of Confidential Information during the course of such testimony, and who have
22 complied with Paragraph 3 below;
- 23 ix. Third-party witnesses who produce, whether voluntarily
24 or pursuant to subpoena or court order, any Materials that they deem to constitute or
25 contain Confidential Information, and who have complied with Paragraph 3 below;
- 26 x. Professional vendors that provide litigation support
27 services, including but not limited to photocopying, videotaping, translation and
28 preparation of exhibits or demonstrations,; and

1 xi. Such other persons as the parties may designate by
2 written stipulation.

3 3. Prior to receiving Materials designated as Confidential Information, all
4 Qualified Persons identified in Paragraphs 2(b)(iv), (viii), and (ix) shall be provided
5 with a copy of this Stipulated Protective Order and shall sign the Declaration and
6 Acknowledgment attached hereto as **Exhibit A**.

7 4. The production of any Materials during discovery in this action shall
8 be without prejudice to any claim by any party that such Materials constitute
9 Confidential Information, and no party shall be deemed to have waived the right to
10 designate such Materials as Confidential Information after such production occurs.

11 5. Whenever, during the course of discovery in this matter, a party or
12 non-party is requested or required to disclose Materials that it considers to
13 constitute or contain Confidential Information, that party shall designate such
14 Materials as Confidential Information or at or before the time of disclosure by
15 marking the Materials as such, placing some other similar designation thereon, or
16 indicating in some other appropriate fashion that the Materials are subject to this
17 Protective Order. A party's or third party's inadvertent failure to designate
18 Materials as Confidential Information shall not operate as waiver of that party's or
19 third party's right to subsequently designate such Materials as Confidential
20 Information.

21 (a) A Confidential determination shall be marked on a page-by-
22 page basis on all above-listed items; documents shall not be deemed Confidential in
23 their entirety unless all pages of that document contain Confidential Information.

24 6. All transcripts of depositions taken in this case shall automatically be
25 treated as Confidential Information for a period of 30 days after receipt of the
26 transcript. This 30-day period will begin to run the day after the transcript is
27 received by counsel for the party defending the deposition, and will conclude at the
28 end of the thirtieth consecutive day (including weekends and holidays). During this

1 30-day period, or during any pending deposition proceeding, any party or third-
2 party deponent may designate a deposition transcript, or any portion thereof, as
3 Confidential Information. If any deposition transcript, or any portion thereof, is not
4 designated as Confidential Information during the deposition proceeding or by the
5 expiration of this 30-day period, that transcript or portion shall no longer be treated
6 as Confidential Information.

7 7. Materials designated as Confidential Information shall be treated in
8 accordance with the terms of this Protective Order and shall be used by the parties,
9 their respective agents and any other persons to whom such Materials may be
10 disclosed only for purposes of litigating, prosecuting, or defending against this
11 action only, and for no other purposes, including any business purposes. Nothing in
12 this Protective Order shall prevent or limit the ability of any party or third party to
13 disclose Materials designated as Confidential Information that such party or third
14 party lawfully obtained independent of discovery in this action, whether or not such
15 Materials are also obtained through discovery in this action. Confidential
16 Information may be used at trial.

17 8. If a party to this action or its counsel is served with a subpoena
18 requiring production of any Materials designated as Confidential Information,
19 counsel for the party receiving the subpoena shall so notify counsel for the
20 designating party in writing within five court days. The parties agree that the
21 designating party shall have five court days after receiving notice of a subpoena
22 requiring production of Materials designated as Confidential Information to object
23 to the subpoena or seek other appropriate relief. If a motion to quash the subpoena
24 is timely filed by the designating party, the subpoenaed party shall not produce the
25 Materials designated as Confidential Information until required to do so pursuant to
26 court order, or unless required to do so by other applicable law.

27 9. Any Materials designated as Confidential Information that are filed
28 with the Court shall be submitted for filing in a sealed envelope bearing the

1 designation “Confidential: Subject to Protective Order,” together with a proposed
2 order, and shall otherwise comply with the requirements of Local Rule 79-5 and all
3 applicable orders of the Court. If the Court denies an application to file under seal
4 Materials designated as Confidential Information, the filing party shall be permitted
5 to file such Materials unsealed.

6 10. If a party inadvertently produces or discloses Materials designated as
7 Confidential Information, or any Materials that are subject to a claim of attorney-
8 client privilege, common interest privilege or work-product immunity, the
9 producing party shall, upon discovering the error, promptly notify the receiving
10 party of the same. The receiving party shall immediately return to the producing
11 party all copies of such Materials, and shall return or destroy all excerpts and
12 summaries thereof. The return of such Materials shall not constitute an admission
13 or concession, or permit any inference, that the returned Materials in fact constitute
14 or contain Confidential Information, or are subject to a claim of attorney-client
15 privilege, common interest privilege, or work product immunity, or constitute a
16 waiver of the returning party’s right to challenge such designations. The
17 inadvertent disclosure of any Materials subject to the attorney-client privilege,
18 common interest privilege, or work product immunity shall not be deemed a waiver
19 of any such privileges or immunities, or a waiver of any party’s right to challenge
20 such privileges or immunities.

21 11. The parties’ agreement to enter into this Protective Order is not
22 consent or admission regarding the confidentiality of any Materials. Should any
23 party seek to challenge the designation of any Materials as Confidential
24 Information, that party may object to the designation. The designating party must
25 then move the Court, in accordance with Local Rule 37, for an order approving
26 such designation and concluding that the Materials are governed by the provisions
27 of this Protective Order. The Court, upon notice to the parties and upon a showing
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1 of good cause, may at any time order removal of a Confidential Information
2 designation from any Materials.

3 12. Within sixty days after the termination of this action and the expiration
4 of the time for appeal or the final determination of any appeals, all originals and
5 copies of any Materials designated as Confidential Information shall either be
6 destroyed or returned to the party who produced such Materials at the option of the
7 Producing Party. In the event that the Materials are destroyed rather than returned,
8 a letter to that effect shall be provided to counsel for the designating party.
9 Notwithstanding this provision, counsel are entitled to retain one archival copy of
10 confidential information used at trial, during depositions or contained in settlement
11 agreements, settlement memoranda, hearing transcripts or documentation filed with
12 the Court.

13 13. This Stipulated Protective Order shall be without prejudice to the
14 rights of the parties to present a motion to the Court, pursuant to Federal Rule of
15 Civil Procedure 26(c), for a separate protective order as to any document or
16 information imposing restrictions differing from those specified herein.

17 14. This Stipulated Protective Order is intended to govern the exchange
18 and use of Materials during discovery, trial preparation, ADR, and post-trial
19 proceedings. Questions regarding the use of Materials designated as Confidential
20 Information during the trial in this action will be addressed by the Court at a later
21 time, as the Court deems appropriate.

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15. Nothing in this Protective Order abridges the right of any party or third party to seek to add to or modify the terms of this Protective Order in the future.

IT IS SO STIPULATED.

Dated: April 19, 2017

MANATT, PHELPS & PHILLIPS, LLP

By: /s/ Viral Mehta

Viral Mehta
Attorneys for Defendants
Christopher W. Metcalf, Joseph P. Cordner,
Marialice Cordner, Scott R. Descher and
Anna R. Descher, as Trustees of the
Descher Family Trust, Hahm International,
Inc., and Levand Steel & Supply Corporation

Dated: April 19, 2017

UNITED STATES DEPT. OF JUSTICE

By: /s/ Bhavna Changrani

Bhavna Changrani
Benjamin J. Grillot
Attorneys for Plaintiff
United States of America

LOCAL RULE 5-4.3.4(a)(2)(i) CERTIFICATION

The filer of this document attests that all other signatories listed above on whose behalf this filing is submitted concur in the filing's content and have authorized the filing.

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ORDER

The Court has reviewed the foregoing Stipulated Protective Order, and good cause appearing therefor,

IT IS SO ORDERED.

Dated: April 24, 2017



Hon. Sheri Pym
United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____[print or type full name], of
_____[print or type full address],
declare under penalty of perjury under the laws of the United States 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 *United
States of America v. 1003.58 Acres of Land, More or Less, et al.*, Case No. 5:16-cv-
1014 VAP (SPx) (“Action”). I agree to comply with and to be bound by all the
terms of the Stipulated Protective Order (“Order”), and I understand and
acknowledge that my failure to comply with the terms of the Order 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 the
Order to any person or entity except in strict compliance with the provisions of the
Order. I further agree to submit to the jurisdiction of the United States District
Court for the Central District of California (or, if there is no federal jurisdiction, in
the State Courts of California, located in Los Angeles County), for the purpose of
enforcing the terms of this Order, even if such enforcement proceedings occur after
the termination of the Action.

Name: _____

Date: _____

Signature: _____

City and State: _____

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