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8 **UNITED STATES DISTRICT COURT**
 9 **EASTERN DISTRICT OF CALIFORNIA**

10	KIRSTIE DUNBAR-KARI,)	1:09-cv-00389-LJO-SMS
11)	
12	Plaintiff,)	STIPULATION TO PROTECTIVE ORDER
13)	REGARDING PRODUCTION OF
14	v.)	CONFIDENTIAL FINANCIAL
15)	INFORMATION; ORDER RE SAME
16	UNITED STATES OF AMERICA; STUART JOHNSTON, dba JOHNSTON CONSTRUCTION,)	
17)	
18	Defendants.)	
19)	
20	STUART JOHNSTON dba JOHNSTON CONSTRUCTION,)	
21)	
22	Cross-Complainant,)	
23)	
24	v.)	
25	UNITED STATES OF AMERICA and ROES 1 to 50,)	
26)	
27	Cross-Defendants.)	
28)	

24 Plaintiff Kirstie Dunbar-Kari ("Plaintiff"), Defendant and
 25 Cross-Defendant United States of America ("United States") and
 26 Defendant and Cross-Complainant Stuart Johnston dba Johnston
 27 Construction ("Johnston") (collectively "the parties") stipulate,
 28 by and through the undersigned counsel, as follows:

1 WHEREAS the parties seek to use financial information
2 relating to the operation of the El Portal Market, including
3 financial information of the current concessionaire, Plaintiff,
4 and the prior concessionaire, Vaughn, Vaughn & Carter;

5 WHEREAS, such financial information is arguably protected
6 from disclosure pursuant to financial privacy rights and/or
7 competitive proprietary rights;

8 WHEREAS, the parties wish to protect the privacy rights of
9 the United States, Plaintiff and any other third parties,
10 including but not limited to the prior concessionaire of the El
11 Portal Market, from unauthorized and/or unnecessary disclosure;

12 WHEREAS, the parties also wish to prevent the possibility of
13 any misuse or unnecessary disclosure of the financial
14 information, regardless of any privacy rights;

15 THE PARTIES THEREFORE STIPULATE, and pending further order
16 of the Court, that the following procedures designed to ensure
17 the protection of this financial information shall govern all
18 forthcoming pre-trial discovery proceedings:

19 1. Financial documentation, as well as all information
20 contained therein, are hereby designated as "confidential
21 financial information" that is privy to rights of privacy and
22 subject to this stipulated Protective Order.

23 2. This confidential financial information may be shown,
24 or its contents disclosed only to the following persons:

25 (a) Counsel of record in this action and counsel's
26 agents and employees;

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1 (b) Any expert used as a consultant or intended to be
2 called as a witness who is retained by counsel of
3 record to assist in the preparation and/or trial of
4 this case; and

5 (c) The parties to this action and their agents and
6 employees.

7 Confidential financial information designated as subject to
8 this Protective Order shall not be disclosed or shown to any
9 other person or entity.

10 3. Confidential financial information designated as
11 subject to this stipulated Protective Order or any information
12 derived therefrom shall be used solely for the purpose of the
13 disputed claims and defenses in connection with this litigation
14 and not for any other purpose.

15 4. The parties' respective counsel of record each agree to
16 make all reasonable efforts to ensure compliance with this
17 Protective Order. Any persons referred to in paragraphs 2(b) and
18 (c) of this stipulated Protective Order who receives information
19 designated as confidential financial information pursuant to this
20 stipulated Protective Order shall first read a copy of this
21 stipulated Protective Order and agree in writing to abide by the
22 terms thereof. Any persons referred to in paragraphs 2(b) and
23 (c) who review any confidential financial information shall agree
24 to the terms of the Stipulation and execute Exhibit A attached
25 hereto.

26 5. The parties enter into this stipulated Protective Order
27 without prejudice to any party's right to object to the
28 disclosure of any information on any ground that it/he/she may
deem appropriate, and any party or non-party may, upon motion,

1 seek relief from, or modification of, this Protective Order based
2 on a showing of good cause.

3 6. The designation of any information as "confidential
4 financial information" pursuant to this Protective Order is
5 intended solely to facilitate the preparation of this case for
6 trial. No party shall be obligated to challenge the propriety of
7 any designation by the opposing party, and a failure to do so
8 shall not preclude a subsequent attack on the propriety of any
9 "confidential financial information" designation.

10 7. If confidential financial information is improperly
11 disclosed to any person other than in the manner authorized by
12 this Protective Order, the party responsible for the disclosure
13 must immediately inform the other party of all pertinent facts
14 relating to such disclosure (including the name and address of
15 each person to whom disclosure was made), promptly retrieve the
16 improperly disclosed confidential financial information and shall
17 make reasonable efforts to prevent further disclosure by said
18 authorized person(s).

19 8. The parties agree that, prior to commencement of trial,
20 they will enter into mutually agreeable stipulations and
21 protective orders with respect to any confidential financial
22 information to be disclosed during trial. Any unresolved
23 disputes shall be resolved in accordance with the Federal Rules
24 of Civil Procedure and addressed within the parties' pretrial
25 statements. Any party intending to utilize any confidential
26 financial information designated as confidential in a law and
27 motion matter or at trial should lodge the document under seal so
28 as to preserve its confidentiality pending the Court's
determination regarding whether a privilege exists that precludes

1 the use of the document or other information as evidence or
2 determining what safeguards should be utilized if the
3 confidential financial information is to be considered as
4 evidence.

5 9. Upon final determination of this action, unless
6 otherwise agreed to in writing by opposing counsel, each party
7 shall either:

8 (a) Assemble and return all material designated as
9 protected confidential financial information under this
10 Protective Order, including all copies thereof, to the
11 producing party and certify in writing that all such
12 material has been returned; or

13 (b) Certify in writing that all such material has been
14 destroyed.

15 10. If any person breaches this stipulated Protective
16 Order, any person may notice a hearing to the District Court
17 requesting appropriate relief.

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25 11. All parties to this Protective Order have participated
26 in drafting the Order.

27 Respectfully submitted,

28 Dated: August 25, 2010

BENJAMIN B. WAGNER
United States Attorney

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/s/Alyson A. Berg
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Attorneys for Defendant and
Cross-Defendant United States
of America

McCormick, Barstow, Sheppard
Wayte & Carruth LLP

(as authorized on 8/23/10)

/s/Wade M. Hansard
WADE M. HANSARD
Attorneys for Plaintiff

Jacobson, Hansen, Najarian &
McQuillan

(as authorized on 8/24/10)

/s/Leith B. Hansen
LEITH B. HANSEN
Attorneys for Defendant
Stuart Johnston

Exhibit A

I, _____, do solemnly swear that I am fully familiar with the terms of the Stipulation entered into in Dunbar-Kari v. United States of America, et al, United States District Court for the Eastern District of California, Case No. 1:09-cv-00389 and hereby agree to comply with and be bound by the terms and conditions of said Stipulation. I hereby consent to the jurisdiction of said Court for purposes of enforcing this Order.

Date: _____

Name

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IT IS SO ORDERED.

Dated: August 25, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE