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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 SECURITIES AND EXCHANGE )  
14 COMMISSION, )  
15 Plaintiff, )  
16 v. )  
17 )  
18 VINAYAK GOWRISH, )  
19 Defendant. )  
20 )

No. CV-09-5883 SI  
  
STIPULATION AND [PROPOSED]  
PROTECTIVE ORDER RE:  
PRODUCTION OF FBI DOCUMENTS

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STIP. AND PROTECTIVE ORDER  
CV-09-5883 SI

1 **STIPULATION**

2 The Federal Bureau of Investigation (“FBI”), Securities and Exchange Commission  
3 (“SEC”) and defendant Vinayak Gowrish (“Gowrish”), by and through their counsel, hereby  
4 stipulate and agree as follows:

5 1. In an order dated May 12, 2010 (the “Production Order”), the Court granted in part and  
6 denied in part Gowrish’s motion to compel the production of certain documents from the FBI and  
7 U.S. Attorney’s Office for the Northern District of California (“USAO”). The parties agree that,  
8 to the extent that the Production Order pertains to the production of interview reports on FBI  
9 form FD-302, production of those documents by the FBI satisfies the Production Order because  
10 the USAO has only duplicate copies and does not possess additional interview reports.

11 2. The FBI will produce documents in response to the Production Order. Insofar as these  
12 documents are subject to the restrictions of the Privacy Act (5 U.S.C. § 552a(b)), the FBI’s  
13 production is made under 5 U.S.C. § 552a(b)(11) (permitting disclosure of otherwise protected  
14 records if done pursuant to the order of a court of competent jurisdiction), and is not in  
15 contravention of the Privacy Act.

16 3. All documents produced, and the information contained therein, shall be used only for the  
17 purpose of this litigation and not for any other purpose.

18 4. Documents produced by the FBI shall be held in confidence by counsel. Specifically, FBI  
19 records produced pursuant to authority of this Stipulation and Order shall be made available only  
20 to counsel and counsel’s administrative staff, consultants and advisors of counsel, the parties  
21 represented by counsel, the Court in further proceedings herein, stenographic deposition  
22 reporters, and to third-party witnesses during the course of oral depositions in this case, as further  
23 described in paragraph 5 of this Stipulation and Order.

24 5. If a document or information contained therein is subject to this Stipulation and Order,  
25 and is used as evidence in a deposition or other discovery proceeding in this case, that portion of  
26 the deposition or other discovery proceeding shall be subject to this Stipulation and Order and  
27 may only be entered into the record (e.g., as part of motion practice, or at trial) in this case under  
28 seal, pursuant to an order of the Court under Civil Local Rule 79-5 or other procedure permitted

1 by the Court.

2 6. All persons having access to the documents produced under this Stipulation and Order  
3 will first agree not to disclose the documents, or the information they contain, other than in  
4 conformance with this Stipulation and Order (or such further order as the Court may enter),  
5 and/or the provisions of the Privacy Act, 5 U.S.C. § 552a. Each person (other than counsel and  
6 administrative staff for the parties to this litigation) who has been granted access to the  
7 documents will evidence such agreement by executing an Acknowledgment of Stipulation and  
8 Order and serving all counsel. A sample Acknowledgment has been attached hereto as **Exhibit**  
9 **A.**

10 7. Upon final determination of this litigation (including all appeals), the parties shall destroy  
11 all documents (including copies, extracts or summaries thereof) produced to them by the FBI  
12 under this Stipulation and Order. Notwithstanding this paragraph, however, counsel for the SEC  
13 and Gowrish may retain one copy of each pleading and other document filed with the Court  
14 which contains any documents covered by this Stipulation and Order.

15 8. This Stipulation and Protective Order is without prejudice to the right of any party to seek  
16 modification of it from the Court, with at least thirty (30) calendar days advance notice to the  
17 FBI, San Francisco Division, 450 Golden Gate, San Francisco, California 94102, Attention:  
18 Chief Division Counsel. The Stipulation and Order shall remain in effect until such time as it is  
19 modified, amended or rescinded by the Court and shall survive termination of this action. The

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1 Court shall have continuing jurisdiction to modify, amend, or rescind this Stipulation and  
2 Protective Order notwithstanding the termination of this action.

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4 SO STIPULATED AND AGREED:

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6 May 19, 2010

/s

James A. Kidney  
Counsel for Securities and Exchange Commission

7

8

9 May 19, 2010

/s

John H. Hemann  
Counsel for Vinayak Gowrish

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12 May 19, 2010

/s

Thomas E. Stevens  
Assistant United States Attorney  
Counsel for the FBI

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**[PROPOSED] ORDER**

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IT SO ORDERED.

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23 Date

SUSAN ILLSTON  
UNITED STATES DISTRICT JUDGE

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**EXHIBIT A**

I, \_\_\_\_\_, of

\_\_\_\_\_ [print or type full address] declare under penalty of perjury that I have read in its entirety and understand the Stipulation and Protective Order Re: Production of FBI documents (the "Protective Order"), issued by the United States District Court for the Northern District of California in the action entitled Securities and Exchange Commission v. Gowrish, et al., CV-09-5883 SI. I agree to comply with, and to be bound by, all the terms of this Protective Order, and I understand and acknowledge that failure to so 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 Protective Order to any person or entity, except in strict compliance with the terms of the Protective Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint \_\_\_\_\_ [name], of \_\_\_\_\_ [address, telephone number] as my California agent for service of process in connection with this action or any proceedings related to the enforcement of this Protective Order.

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

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

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

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