

REED SMITH LLP

A limited liability partnership formed in the State of Delaware

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17 Robert Carl Patrick Keane and Chieko Strange

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

20 ROBERT CARL PATRICK KEANE,
21 individually; and CHIEKO STRANGE,
22 individually,

23 Plaintiffs,

24 vs.

25 SETH M. MCMULLEN, PAUL ACCORNERO
26 and JOHN SILVA,

27 Defendants.

No.: C 07 4894 SBA

**STIPULATED ~~PROPOSED~~
PROTECTIVE ORDER**

Hon. James Larson

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STIPULATED PROTECTIVE ORDER

1. The parties shall have the right to designate as subject to this Protective Order any document or other item subject to disclosure pursuant to Fed.R.Civ.P. 26(a) or responsive to discovery requests which is a record subject to the Privacy Act of 1974 or which contains or refers or relates to records which are subject to the Privacy Act of 1974 and other confidential documents including, but not limited to, medical records, financial records, tax records, and sensitive law enforcement materials which is produced in this matter.
2. Such documents or other tangible items must be designated as subject to this Protective Order by conspicuously stamping the phrase "SUBJECT TO PROTECTIVE ORDER" or "CONFIDENTIAL" on each page or, in the case of other tangible items, by notifying the parties in writing.
3. Information designated as SUBJECT TO PROTECTIVE ORDER shall not be disclosed or disseminated to anyone, except:
 - a. A party, counsel for any party and the employees of such counsel to whom it is necessary that the information be disclosed for purposes of preparation for and litigation of this action;
 - b. Any expert engaged by a party for the purpose of assisting in the preparation of this litigation to whom it is necessary that the information be disclosed for purposes of preparation for and litigation of this action;
 - c. Any person who was involved in the preparation of the document or information;
 - d. The Court, the jury and court personnel, court reporters and persons engaged to make copies, provided that all SUBJECT TO A PROTECTIVE ORDER information filed with the Clerk of the Court shall be filed under seal and shall be released only upon agreement among all parties, or pursuant to the terms of this Order, or by order of the Court;
4. Each person to whom SUBJECT TO A PROTECTIVE ORDER information will be disseminated (other than the parties, attorneys for the parties, and the attorneys' employees,

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1 the Court, the jury, court personnel, and court reporters) will be required, prior to any such
2 dissemination, to receive and read a copy of this PROTECTIVE ORDER and to agree, in
3 writing, to be bound by the terms of this order and personally subject to the jurisdiction of
4 this Court for the purposes of enforcement hereof in the form attached hereto as Exhibit A.
5 Counsel for any party receiving SUBJECT TO PROTECTIVE ORDER information and
6 disseminating same shall maintain a list of all such persons along with the written agreement
7 of each person, and shall provide copies of such written agreements upon request to other
8 parties at any time.

9 5. When any SUBJECT TO PROTECTIVE ORDER information, documents, discovery
10 responses, portion of transcripts of any other pleadings or papers disclosing or referring to
11 such SUBJECT TO A PROTECTIVE ORDER information are used in connection with any
12 motion or pretrial hearing, or are otherwise submitted to the Court, they shall be filed under
13 seal and marked as follows:

14 CONFIDENTIAL/SUBJECT TO A PROTECTIVE ORDER: This
15 envelope contains documents that are subject to a protective order of
16 this Court. The contents are not to be revealed to anyone except the
17 Court, or with this prior written consent of the parties herein, or
18 pursuant to any order of this Court. If the contents are thus revealed,
19 they shall thereafter be rescaled.

20 6. All documents and other discovery produced or obtained in the course of this litigation
21 marked SUBJECT TO A PROTECTIVE ORDER shall be used for the sole and limited
22 purpose of preparation for and trial of this action and shall not be used for any other purpose.

23 7. Within thirty (30) days of the close of this litigation for any reason, each party shall retrieve
24 all copies of materials marked SUBJECT TO A PROTECTIVE ORDER from his or its own
25 files, and from experts or other persons to whom he or it has provided such materials
26 consistent with this Order, and shall do one of the following: (1) return to the designating
27 party all such materials, including all copies thereof, produce by such designating party
28 during the action or (2) certify in writing to the designating party that all such materials

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1 produced by such other party during this action have been destroyed. All information
2 protected by this Order which has been placed in any computer data bank shall be completely
3 erased, and any documents listing or summarizing information protected by this Order shall
4 be destroyed within the same period.

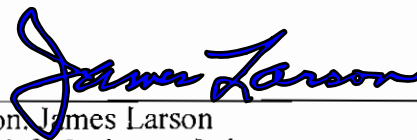
5 8. The parties recognize that confidential documents may have already been exchanged pending
6 entry of this Order, or may be produced by third parties. The parties agree to mark such
7 documents as CONFIDENTIAL when any party identifies such documents as
8 CONFIDENTIAL in a letter transmitted to all parties.

9 9. Nothing herein contained shall be construed to preclude or limit any party from opposing any
10 discovery on any ground that would otherwise be available. Entry of this Order shall not in
11 and of itself, prejudice any contention of any party upon any motion, nor shall this Order and
12 any consent hereto constitute a waiver of any right to seek relief from the Court from any and
13 all of the provisions hereof or other modifications of the terms hereof. This Order shall not
14 limit any party's right to seek judicial review or to seek further and additional protection
15 against or limitation upon production or dissemination of information and documents or their
16 contents.

17 10. Nothing herein shall be construed to preclude or limit the presence of any individual at any
18 hearing in or the trial of this action.

19 11. Upon entry of this order, defendant shall not refuse to produce documents or information on
20 the sole ground that such documents or information are protected from disclosure by the
21 Privacy Act. By complying with this Order, defendant and his agents are relieved of any
22 penalties to which they would otherwise be subjected pursuant to Title 5, section 552a,
23 United States Code.

24
25 DATED: December 9, 2008



26 Hon. James Larson
27 Chief Magistrate Judge
28

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 that I have read in its entirety and understand the Stipulated Protective
Order that was issued by the United States District Court for the Northern District of California on
___/___/20___ [date] in the case of Keane v. McMullen Case no. C 07 4894 SBA. 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 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 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
Northern 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.

I hereby appoint _____ [print or type full name] of
_____ [print or type
full address and telephone number] as my California agent for service of process in connection with
this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
[printed name]

Signature: _____
[signature]

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