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E-Filed 4/21/09

5 Attorney for Defendant
6 LARRY SPENCER CONSTRUCTION

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11
12 KATHLEEN VENTIMIGLIA, individually, and) CASE NO. 5:07-CV-5481 RS
13 as the Guardian Ad Litem for STEPHEN)
VENTIMILIA and KELLIE VENTIMILIA,) **STIPULATION AND PROPOSED**
14 Plaintiffs,) **ORDER FOR A JUDICIALLY ISSUED**
15 v.) **SUBPOENA TO NATIONAL**
16 UNITED STATES OF AMERICA,) **PERSONNEL RECORDS**
17 CHAMBLIN-LANDES CONSTRUCTION,)
18 INC., a California corporation; WWD)
CORPORATION, a California corporation;)
19 DAVID FULLER, individually; JENNIFER)
RUDOLPH, individually; LARRY GABRIEL,)
individually; LARRY SPENCER)
20 CONSTRUCTION; and DOES 1 to 50,)
inclusive,)
21 Defendants.)

22
23 IT IS HEREBY STIPULATED by and between plaintiffs, Kathleen Ventimiglia,
24 individually and as Guardian Ad Litem for Stephen Ventimilia and Kellie Ventimilia and
25 defendant, Larry Spencer Construction, as follows:

26 1. Larry Spencer Construction caused a subpoena to be issued to National Personnel
27 Records seeking records regarding employment of Joseph Ventimiglia (the "Subpoena") as
28 follows:

1 Any and all employment records, including all writings, as defined below in
2 Exhibit A, regarding or making reference to: Mr. Joseph Ventimiglia, deceased;
3 Date of birth 10/02/1953; Soc. Sec. No. 545-88-8653.

4 Exhibit A: "Writing" means handwriting, typewriting, printing, photostating,
5 photographing, photocopying, transmitting by electronic mail or facsimile, and
6 every other means of recording upon any tangible thing, any form of
7 communication or representation, including letters, words, pictures, sounds, or
8 symbols, or combinations thereof, and any record thereby created, regardless of
9 the manner in which the record has been stored. Writing includes all electronic
10 communications, namely, email.

11 TO INCLUDE RECORDS FROM THE NAVAL POSTGRADUATE SCHOOL
12 FIRE DEPARTMENT LOCATED AT 1399 CUNNINGHAM ROAD IN
13 MONTEREY, CALIFORNIA.

14 2. The Subpoena was issued by counsel for Larry Spencer Construction. The
15 National Personnel Records responded that the Privacy Act, 5 USC § 552a(b)(11), requires a
16 "judicially-issued subpoena" signed by a Judge, and not the Clerk, to produce the requested
17 documents. See also 5 C.F.R. § 297. As such, the National Personnel Records responded that it
18 would not produce the requested documents unless the Subpoena was issued by a Court of
19 competent jurisdiction.

20 Therefore, there being no objections to the National Personnel Records producing the
21 requested records, it is agreed by and between plaintiffs and defendant, Larry Spencer
22 Construction, that the Court may issue a subpoena upon the National Personnel Records, as
23 required by the Privacy Act, 5 USC § 552a(b)(11) requesting the records originally requested in
24 the Subpoena, detailed above.

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1 Dated: April 14, 2009

CORSIGLIA, McMAHON & ALLARD, LLP

2
3 By: 
4 BRADLEY CORSIGLIA
5 Attorneys for Plaintiffs
6 KATHLEEN VENTIMIGLIA, individually and as
7 the Guardian Ad Litem for STEPHEN
8 VENTIMILIA and KELLIE VENTIMILIA

7 DATED: April 3, 2009

HARDIMAN & CARROLL

8
9 By: 
10 KENNETH BERLAND
11 Attorney for Defendant
12 LARRY SPENCER CONSTRUCTION

13
14 **ORDER**

15 Pursuant to the above Stipulation and as Required by 5 USC § 552a(b)(11) it is hereby
16 ORDERED:

17 1. The Court will issue a subpoena to the National Personnel Records which
18 requests the following records signed by a Judge of the Northern District of California (a
19 proposed subpoena is attached hereto as Exhibit "A"):

20 Any and all employment records, including all writings, as defined below in
21 Exhibit A, regarding or making reference to: Mr. Joseph Ventimiglia, deceased;
22 Date of birth 10/02/1953; Soc. Sec. No. 545-88-8653.

23 Exhibit A: "Writing" means handwriting, typewriting, printing, photostating,
24 photographing, photocopying, transmitting by electronic mail or facsimile, and
25 every other means of recording upon any tangible thing, any form of
26 communication or representation, including letters, words, pictures, sounds, or
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28 the manner in which the record has been stored. Writing includes all electronic

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TO INCLUDE RECORDS FROM THE NAVAL POSTGRADUATE SCHOOL
FIRE DEPARTMENT LOCATED AT 1399 CUNNINGHAM ROAD IN
MONTEREY, CALIFORNIA.

IT IS SO ORDERED.

DATED: 4/21, 2009



JUDGE OF THE NORTHERN DISTRICT
OF CALIFORNIA

RICHARD SEEBORG
UNITED STATES MAGISTRATE JUDGE