

**** E-filed August 16, 2010 ****

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14
 15 **UNITED STATES DISTRICT COURT**
FOR THE NORTHERN DISTRICT OF CALIFORNIA
 16

17 SANTA CLARA VALLEY HOUSING
 GROUP, INC and KRISTEN M. BOWES,
 18

Case No. 5:08-cv-05097-JW

19 Plaintiffs,

**STIPULATED PROTECTIVE ORDER
 REGARDING AMERICAN
 INTERNATIONAL GROUP, INC.
 AS AMENDED BY THE COURT**

21 v.

Honorable Judge Lucy H. Koh

22 UNITED STATES OF AMERICA,

23 Defendant.

1 By agreement of the parties, plaintiffs Santa Clara Valley Housing Group, Inc.
2 and Kristen M. Bowes (“Plaintiffs”), and defendant United States of America (“United
3 States” or “Defendant”) (each, a “Party” and together, “the Parties”), and non-party
4 American International Group, Inc., and/or its subsidiaries or affiliated entities,
5 specifically including but not limited to American International Specialty Lines Insurance
6 Company, n/k/a Chartis Specialty Insurance Company (collectively, “AIG”), by and
7 through their attorneys, and in order to protect certain information during the discovery
8 phase of this litigation that non-party AIG may be required to produce during the course
9 of this action while recognizing the “vital public interest in open judicial proceedings,”
10 28 C.F.R. § 50.9, it is hereby ORDERED that:

11 1. Information, materials, and documents (whether in paper or electronic form)
12 produced or furnished by AIG to either or both of the Parties in response to subpoenas
13 issued in this case that contain any confidential tax, personal, or financial information
14 relating to any individual or entity other than the Parties, or their employees or affiliates,
15 which AIG designates and identifies as “Protected Information” after a good-faith
16 determination that the information, materials, or documents warrant protection under the
17 appropriate standards, shall be deemed “Protected Information.” Notwithstanding any
18 other provisions of this Order, the Parties and AIG understand and agree that documents
19 produced by AIG in response to subpoenas in this case, and that are otherwise publicly
20 available, are not entitled to treatment as Protected Information pursuant to this Order,
21 and may be treated by the Parties as not being Protected Information without the need for
22 any further order of this Court. The presumptions concerning Protected Information
23 identified by the paragraph are subject to the objection provisions of paragraph 7. The
24 issuance of this Protective Order does not constitute a finding by the Court (or an
25 admission by any Party) that any Protected Information is relevant, admissible, or
26 otherwise not subject to challenge on evidentiary grounds.

1 2. Protected Information may be used in any and all discovery proceedings in this
2 case including, but not limited to, document requests, requests for admission, depositions,
3 interrogatories, and discovery motions, but shall not otherwise be publicly disclosed
4 except as permitted by this Order. Protected Information may be used by the Parties in
5 connection with the prosecution or defense of this action (including, but not limited to, all
6 uses associated with motions filings and all uses associated with offering Protected
7 Information into evidence or eliciting/offering testimony at trial), but not for any other
8 pending or threatened civil litigation, nor any business or other purpose, except as
9 otherwise provided for in this Order. The United States may use Protected Information
10 in other civil litigation, provided that the United States provides written notification to
11 AIG and its counsel in advance of any intended use in other civil litigation. The written
12 notification to AIG shall be provided to Devaleena Das, Associate Litigation Counsel,
13 Chartis U.S., 175 Water Street, 18th Floor, New York, NY 10038 and the written
14 notification to AIG's counsel shall be provided to Daniel W. Nelson and Melanie L.
15 Katsur, Gibson Dunn & Crutcher LLP, 1050 Connecticut Ave. NW, Washington, DC
16 20036. The written notification shall be made in a reasonable time and manner to allow
17 AIG to interpose objections to the use of the Protected Information in such other civil
18 litigation. The written notice shall confirm the agreement of the United States that (i) the
19 Protected Information will be used solely for purposes of such other civil litigation and (ii)
20 access to the Protected Information will be limited in the same manner and subject to the
21 same limitations as provided in this Order. The United States agrees that AIG does not
22 waive any evidentiary objections it may have in such other and subsequent civil litigation
23 by producing Protected Information for use in this action. ←

24 3. Except as described herein (or by subsequent order of this Court), the Parties
25 agree not to give, show, disclose, disseminate, or describe, either directly or indirectly,
26 Protected Information to any person(s) other than those identified, below, by this Order.

The Parties acknowledge that this Order creates no entitlement to file Protected Information under seal; a Party that seeks to file under seal any Protected Information must comply with Civil Local Rule 79-5 and General Order 62.

1 4. Access to Protected Information shall be restricted to:
2 (a). This Court and its personnel;
3 (b). Counsel for the Parties, including outside and in-house lawyers; other
4 lawyers regularly employed in their offices; and such supervising attorneys, lawyers'
5 staff, and administrators, to whom it is necessary to disclose Protected Information for
6 purposes of this litigation (including secretaries, paralegals, clerks, and other assistants);
7 (c). The Parties themselves (for purposes of the United States, this includes all
8 persons employed by the United States Department of Justice or the Internal Revenue
9 Service whose duties include assisting with, or reviewing, matters concerning this
10 litigation);

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1 (d). Independent experts or consultants retained by counsel for the Parties for
2 the purpose of assisting in this litigation, including any of their staff to whom it is
3 necessary to disclose Protected Information in order to assist in their participation in this
4 litigation;

5 (e). Any potential witness in this litigation identified in the Complaint,
6 identified during discovery or by the Parties' witness lists, or planned to be called as a
7 witness by a Party at deposition or during trial or to be interviewed about a matter at issue
8 in this case, as well as any counsel for such witness and any person(s) present during
9 such testimony or interview. For purposes of this paragraph 4(e), the Parties and AIG
10 understand and agree that documents produced by AIG in response to subpoenas in this
11 case, and that are otherwise available to a potential witness described in this paragraph
12 4(e), shall not be treated as Protected Information with respect to such potential witness.
13 Individuals identified by this Paragraph may be provided with a copy of any relevant
14 Protected Information for their review in preparation for or during the witness's
15 deposition or testimony, either at trial or other hearing in this litigation. Upon completion
16 of their review, the Protected Information provided shall be returned to counsel for the
17 Party that supplied it;

18 (f). Any mediators, arbitrators, or other outside parties and their staff enlisted
19 by all Parties to assist in the resolution of this matter;

20 (g). Outside or contracted litigation-support services, including commercial
21 copying services;

22 (h). Any court reporter, transcriber or videographer who reports, transcribes or
23 records testimony in this action at a deposition;

24 (i). Employees of the Department of Justice and the Internal Revenue Service
25 who are assigned to any criminal investigation or matter for their unrestricted use in such
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1 criminal investigation or matter, which use shall not be limited by the terms of this Order;
2 and

3 (j). Anyone as may be ordered by the Court.
4

5 5. No Party shall disclose Protected Information or copies of Protected Information
6 to any of the persons identified in Paragraphs 4(d) or 4(f) without first having obtained an
7 executed acknowledgment from such person, substantially in the form attached hereto or,
8 in the case of depositions, an acknowledgement on the record that such person agrees to
9 be bound by the terms of this Protective Order. No Party shall disclose Protected
10 Information or copies of Protected Information to any of the persons identified in
11 Paragraphs 4(e), 4(g) or 4(h) without first seeking to have such persons execute an
12 acknowledgment, substantially in the form attached hereto or, in the case of depositions,
13 an acknowledgement on the record that such person agrees to be bound by the terms of
14 this Protective Order. Notwithstanding the rest of this Paragraph, no acknowledgment
15 shall be required by a person identified in Paragraph 4(g) who has previously executed a
16 contract, confidentiality agreement, or other arrangement which forbids further disclosure
17 of information provided to such person in connection with such person's litigation-
18 support services.

19 6. The Parties and AIG agree that the inadvertent or unintentional disclosure by a
20 Party of Protected Information shall not be deemed a waiver in whole or in part of any
21 claim of confidentiality or protected status. This paragraph applies to both the specific
22 information disclosed as well as any other information relating thereto or on the same or
23 related subject matter.

24 7. Any Party may object to the designation of, or failure to designate, a document as
25 Protected Information under this Protective Order. If the Parties and AIG cannot resolve
26 the matter by agreement after conferring in good faith (in voice-to-voice dialogue; other

1 forms of communication are not sufficient), any Party or AIG may submit the matter to
2 the Court for resolution. The burden of persuasion in any such proceeding shall be on the
3 side claiming protection. Until the Court resolves the matter, the disputed document shall
4 be treated as protected by this Protective Order.

5 8. Should either Party be commanded pursuant to a valid subpoena issuing from any
6 federal or state court, administrative agency or other governmental authority to disclose
7 Protected Information, such Party will promptly notify AIG and its counsel in advance of
8 any disclosure pursuant to such a subpoena in order to afford AIG an opportunity to
9 object or move to quash the subpoena.

10 9. Within ninety (90) days after the final conclusion of this litigation, including all
11 appeals, each Party will provide written certification to AIG that all originals and/or
12 copies of all Protected Information (including both paper and electronic versions) in the
13 possession of the Party, its counsel or other agents, have been either returned to AIG or
14 destroyed. Each Party's counsel may retain any attorney work product even though it
15 contains Protected Information, but such retained work product shall remain subject to
16 the terms of this Protective Order. The Defendant's counsel may retain its work product,
17 copies of court filings and official transcripts and exhibits and other documents required
18 to be retained by written Department of Justice record-retention policy, provided that all
19 such retained documents designated as Protected Information continue to be treated as
20 provided herein.

21 10. This Protective Order shall be effective immediately upon signature by counsel
22 for either Party, and shall remain in effect after conclusion of this litigation, and the
23 signing Parties agree that the Court may enforce the terms of this agreement and may
24 disclose any Protected Information as part of a Court order or memorandum. The Court
25 shall retain jurisdiction to enforce the terms of this Protective Order for six months after
26 the final termination of this action.

- 1 11. This Stipulation may be executed by each Party separately.
- 2 12. Counsel for the Parties shall promptly report any breach of the provisions of this
3 Protective Order to counsel for AIG. Upon discovery of any breach of this Protective
4 Order, counsel for the breaching Party shall immediately take appropriate action to cure
5 the violation and retrieve any Protected Information that may have been disclosed to
6 persons not covered by this Protective Order. The Parties and AIG shall reasonably
7 cooperate in determining the existence of any such breach and whether there is reason to
8 report the breach to the Court.
- 9 13. Upon entry of this Order by the Court and in accordance with the return date of
10 the subpoena, AIG shall furnish a set of responsive documents to both counsel for the
11 Plaintiffs and counsel for the Defendant.

12 DATED: July 29, 2010

HOCHMAN SALKIN RETTIG TOSCHER &
PEREZ, P.C.

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14
15 By: /s/ Sharyn M. Fisk
CHARLES P. RETTIG
Attorneys for Plaintiffs
16 SANTA CLARA VALLEY HOUSING GROUP,
17 INC and KRISTEN M. BOWES

18 DATED: July 29, 2010

JOSEPH P. RUSSONIELLO
United States Attorney
19 THOMAS NEWMAN
20 Assistant United States Attorney

21 By: /s/ Adam Strait
HENRY C. DARMSTADTER
22 JAMES E. WEAVER
23 STEVEN P. JOHNSON
ADAM D. STRAIT
24 Trial Attorneys, Tax Division
U.S. Department of Justice
25 Attorneys for the Defendant
26 UNITED STATES OF AMERICA

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DATED: July 29, 2010

GIBSON, DUNN & CRUTCHER LLP

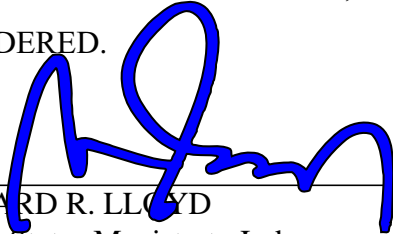
By: /s/ Melanie L. Katsur

DANIEL W. NELSON
MELANIE L. KATSUR

Attorneys for Non-Party
AMERICAN INTERNATIONAL GROUP, INC.

PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

DATED: August 16, 2010



HOWARD R. LLOYD
United States Magistrate Judge

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ACKNOWLEDGMENT

The undersigned has been provided with a copy of the foregoing Protective Order entered in the case captioned *Santa Clara Valley Housing Group, Inc. and Kristen M. Bowes v. United States of America*, Case No. 5:08-cv-05097-JW; has had an opportunity to review the Protective Order; and is fully familiar with all of the terms of the Protective Order. By executing this Acknowledgment, the undersigned agrees to be bound by the terms of the Protective Order.

Print Name: _____

Address: _____

Date signed: _____

1 JOSEPH P. ROSSONIELLO
United States Attorney
2 THOMAS M. NEWMAN
Assistant United States Attorney

3 HENRY C. DARMSTADTER
4 JAMES E. WEAVER
STEPHEN P. JOHNSON
5 ADAM D. STRAIT
Trial Attorneys, Tax Division
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P.O. Box 683, Ben Franklin Station
7 Washington, D.C. 20044-0683
Telephone: 202-307-6481
8 Fax: 202-307-0054

9 Attorneys for the United States of America

10
11 **UNITED STATES DISTRICT COURT**
FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13 SANTA CLARA VALLEY HOUSING
GROUP, INC and KRISTEN M. BOWES,

14
15 Plaintiffs,

16
17 v.

18 UNITED STATES OF AMERICA,

19 Defendant.
20

Case No. 5:08-cv-05097-JW

**CERTIFICATE OF SERVICE OF
STIPULATED PROTECTIVE ORDER
REGARDING AMERICAN
INTERNATIONAL GROUP, INC.**

Honorable Judge James Ware

21 I, Adam D. Strait, pursuant to 28 U.S.C. § 1746, declare as follows:
22

23 1. I filed the foregoing Stipulated Protective Order Regarding American
24 International Group, Inc. with the Clerk of Court on July 29, 2010, through the Court's
25 CM/ECF sytem.

26 2. On July 29, 2010, 2010, through the Court's CM/ECF system, I
27 electronically served a copy of the foregoing Stipulated Protective Order on Charles P.
28

1 Rettig, Steven Toscher, Avram Salkin, Edward M. Robbins, Jr., and Sharyn M. Fisk,
2 counsel for the Plaintiffs.

3 3. On July 29, 2010, I sent a copy of the foregoing Stipulated Protective
4 Order by first-class mail, postage prepaid, to the following:

5 Charles P. Rettig
6 Steven Toscher
7 Avram Salkin
8 Edward M. Robbins, Jr.
9 Sharyn M. Fisk
10 Hochman Salkin Rettig Toscher & Perez, P.C.
11 9150 Wilshire Boulevard, Suite 300
12 Beverly Hills, California 90212

13 4. On July 29, 2010, I served a copy of the foregoing Stipulated Protective
14 Order on Melanie Katsur, counsel for American International Group, Inc., by attaching to
15 an email to MKatsur@gibsondunn.com a copy of the same .pdf file electronically filed
16 with the Court.

17 5. On July 29, 2010, I sent a copy of the foregoing Stipulated Protective
18 Order by first-class mail, postage prepaid, to the following:

19 Daniel W. Nelson
20 Melanie L. Katsur
21 Gibson, Dunn & Crutcher LLP
22 1050 Connecticut Avenue, N.W.
23 Washington, DC 20036-5306

24 Under penalty of perjury, I declare the foregoing to be true and correct to the best
25 of my knowledge.

26 Date: July 29, 2010

27 /s/ Adam Strait
28 Adam D. Strait
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-2135
Facsimile: (202) 307-0054
adam.d.strait@usdoj.gov