

**UNITED STATES' UNOPPOSED MOTION
FOR STIPULATED PROTECTIVE ORDER**

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

AARON TOBEY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:11cv154-HEH
)	
JANET NAPOLITANO, et al.,)	
)	
Defendants.)	
_____)	

PROPOSED STIPULATED PROTECTIVE ORDER

Upon consideration of the United States’ Unopposed Motion for Stipulated Protective Order, IT IS HEREBY ORDERED as follows:

1. For purposes of this Order, (a) “Protected Information” shall be the names of the individual Transportation Security Officers to be identified by the United States no later than May 23, 2011 and who will be named as “Jane Smith” or “John Smith” or similar nomenclature in Plaintiff’s Amended Complaint; and (b) “attorneys of record” shall mean individual attorneys of record and/or attorneys whose names appear on pleadings in this case, but shall not include the law firm or organization with which any individual attorney is affiliated.

2. Except as otherwise ordered by this Court or provided herein, Protected Information may be disclosed only to the following persons: (a) attorneys of record for the parties in this case; (b) a party or parties, should his or their attorneys of record determine that such disclosure is necessary for the prosecution of this action; (c) any persons regularly in the employ of, or persons contracted to perform services for, attorneys of record for the parties to the extent reasonably necessary for the prosecution of this action, including court reporters and/or court reporting

firms; (d) attorneys of record for the United States in this case; (e) persons regularly in the employ of attorneys of record for the United States to the extent reasonably necessary to render professional services in this case; (f) employees of federal agencies as deemed necessary by attorneys of record for the United States; and (g) this Court and its support personnel who are involved in this case.

3. Except as provided herein, no person having access to Protected Information shall make any disclosure of Protected Information without further Order of the Court.

4. Except as provided herein, no person having access to Protected Information pursuant to paragraph 2 (a)-(c) above shall use or disclose Protected Information for any purpose other than prosecuting this action. Prosecuting this action does not include contacting directly or indirectly in any manner, except through attorneys of record for the United States, any of the persons whose names are identified as Protected Information, and who are or will be represented parties.

5. Except for the individuals described in paragraph 2 (d)-(g) above, all individuals to whom Protected Information is disclosed shall be informed of and shall agree with the terms of this Order; shall not disclose or use the Protected Information except in compliance with this Order; and shall, before receiving Protected Information, acknowledge their agreement to comply with this Order by signing a copy of the attached acknowledgment form (the Acknowledgment"). A copy of each such Acknowledgment must be provided promptly after its execution to the lead attorney of record for the United States.

6. This order shall remain in effect while any dispositive motions filed by defendants are pending; thereafter, each party reserves the right to move to modify the terms of this

Protective Order at any time. If, after the resolution of dispositive motions, this case proceeds to discovery against any or all of the individuals described in paragraph (1) above, the parties will revisit the terms of the Protective Order to determine if the protections are still warranted. Each party also reserves the right to move for additional protections of any documents or information at any time.

7. Any documents, briefs, or other materials containing Protected Information shall be filed publicly with the Protected Information redacted or otherwise concealed through the use of a pseudonym.

8. If necessary, as a supplement to the public filing of any documents, briefs, or other materials concealing Protected Information through the use of a pseudonym or redactions, a party may file under seal said briefs, documents, or other materials containing the Protected Information without concealment. Neither any party nor any third party may use Protected Information in open Court, orally or through documents, without first obtaining the written consent of the Department of Justice or an Order from the Court ruling that the Protected Information is relevant and may be publicly disclosed.

9. Except as provided herein, within ninety (90) days of the conclusion of this case (including any appeals), those portions of documents, discovery requests, discovery responses, transcripts, and other materials, and all copies thereof, containing Protected Information (“Protected Information Portions”) must be destroyed or deleted by persons executing the Acknowledgment. Within ninety (90) days of the conclusion of this case and any appeals, Plaintiff’s attorneys of record and any other person executing the Acknowledgment must certify in writing that the Protected Information Portions, and all copies thereof, have been destroyed or

deleted. Notwithstanding the foregoing provisions of this paragraph, no person is required to destroy any document that has been publicly filed with this Court or with a court of appeals of competent jurisdiction in connection with this case; further, this paragraph does not apply to the United States, its employees, its attorneys, or persons hired or in the employ of its attorneys; or to this Court or its support personnel.

10. Neither the United States nor any of its officers, employees, or attorneys shall bear any responsibility or liability under the Privacy Act for any unauthorized disclosure of any Protected Information obtained under this Order.

11. The Plaintiff's consent to this Order is given to avoid burdening the Court with unnecessary litigation and to effect economy in the judicial process, and shall not be deemed to be a concession by Plaintiff that there is any legal necessity for this protective order, and/or that the desire to avoid publicizing the names of the TSOs justifies entry of the Order. This Order also does not constitute any ruling on the question of whether any particular document or category of information is properly discoverable and does not constitute any ruling on any potential objection to the discoverability, relevance, or admissibility of any document or information. Nor does this Order constitute any ruling on the question of whether the United States may withhold any particular document or category of information on the basis of privilege.

12. This Order does not apply to any information or documents other than the Protected Information as defined in paragraph 1.

SO ORDERED.

Dated: _____

HENRY E. HUDSON
UNITED STATES DISTRICT JUDGE

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ACKNOWLEDGMENT OF STIPULATED PROTECTIVE ORDER

I, _____, hereby acknowledge that I have read and understand the Stipulated Protective Order ("Order") entered in this action. I hereby agree to be bound by the terms of the Order. Specifically,

1. I agree that I will use the Protected Information as defined in the Order only for purposes of this litigation, including any appeals, and not for any other purpose of any kind;

2. I agree that records containing the Protected Information, and all copies thereof protected by the Order, may not be removed from, or reviewed outside of, the facility in which the said records are stored by attorneys of record, except to the extent said records are (a) sent to the Court for filing; (b) in the possession of attorneys of record for use in the litigation; (c) in the possession of any court reporter and/or court reporting firm for use in the litigation; (d) sent to the expert witness(es) or litigation consultant(s) retained or hired by the parties; or (e) returned to attorneys of record for the United States.

3. I agree that those portions of records containing Protected Information, as defined in the Order, and all copies thereof, shall be destroyed or deleted within 90 days after the

termination of this litigation. I agree that, if I destroy or delete Protected Information, I will so certify in writing to attorneys of record for the United States within 90 days after the termination of this litigation;

4. I agree that, subject to the restrictions in paragraph 8 of the Order and paragraph 2 above, I may disclose records and information containing Protected Information protected by the Order only to the Court, the parties to this action and their attorneys of record, persons regularly in the employ of such attorneys, and any experts or consultants and/or court reporters or court reporting firms hired for this case by attorneys of record and who (except the Court) have signed an acknowledgment like this one and have a need for such information to perform duties specifically related to the conduct of this litigation;

5. Should I wish to disclose records containing Protected Information that are subject to the Order to any additional persons except those indicated in the Order and herein, I will first seek consent from attorneys of record for the United States;

6. I agree that those portions of any filings with the Court which include records containing Protected Information protected by the Order shall be filed under seal;

7. I hereby confirm that my duties under this Acknowledgment shall survive the termination of this case and are binding upon me for all time; and

8. I hereby consent to the personal jurisdiction of the United States District Court for the Eastern District of Virginia in the above-captioned case for the purpose of enforcing the aforementioned Order.

[signature]

[print name]

Dated: _____