

1 DOWNEY BRAND LLP  
ROBERT P. SORAN  
2 ASHLEY M. BOULTON  
621 Capitol Mall, 18th Floor  
3 Sacramento, CA 95814-4731  
Telephone: (916) 444-1000 / Facsimile: (916) 444-2100  
4

5 Attorneys for Defendants  
GOOSE POND AG, INC., and FARMLAND MANAGEMENT SERVICES

6 CANNATA, O'TOOLE, FICKES & ALMAZAN  
7 THERESE Y. CANNATA  
KIMBERLY A. ALMAZAN  
8 100 Pine Street, Suite 350  
San Francisco, CA 94111  
9 Telephone: 415.409.8900 / Facsimile: 415.409.8904

10 Attorneys for Defendants  
ROGER J. LAPANT, JR. and J&J FARMS

11 JEFFREY H. WOOD  
12 Acting Assistant Attorney General  
ANDREW J. DOYLE  
13 JOHN THOMAS H. DO  
United States Department of Justice  
14 Environmental and Natural Resources Division  
P.O. Box 7611  
15 Washington, DC 20044  
16 Telephone: (202) 514-4427 (Doyle), (202) 514-2593 (Do)

17 PHILLIP A. TALBERT  
United States Attorney  
18 GREGORY T. BRODERICK  
Assistant United States Attorney  
19 501 I Street, Suite 10-100  
Sacramento, CA 95814  
20 Telephone: (916) 554-2780

21 Attorneys for the UNITED STATES OF AMERICA

22 UNITED STATES DISTRICT COURT  
23 EASTERN DISTRICT OF CALIFORNIA

24 UNITED STATES OF AMERICA,  
25 Plaintiff,  
26 v.  
27 ROGER J. LAPANT, JR., *et al.*,  
28 Defendants.

Case No. 2:16-cv-01498-KJM-DB

**STIPULATION REGARDING  
CONFIDENTIAL FINANCIAL  
INFORMATION; ORDER**

1 Pursuant to Federal Rule of Civil Procedure 26(c), the Parties' Joint Status Report and  
2 Discovery Plan (ECF No. 22), and the Court's direction at the March 2, 2017 status conference  
3 (ECF No. 23), the Parties submit the following stipulation and proposed Order regarding  
4 confidential financial information.

5 A. REQUEST FOR PROTECTIVE ORDER FOR CERTAIN FINANCIAL  
6 DOCUMENTS. The Parties stipulate and propose that the Court issue the following Order  
7 pursuant to Federal Rule of Civil Procedure 26(c) separate and apart from the Confidentiality  
8 Order of November 6, 2016 (ECF No. 15), which governs the exchange of certain documents in  
9 furtherance of the settlement process.

10 1. The term "confidential document" herein means all documents, or parts  
11 thereof, which are designated as confidential by the Party producing them consistent with the  
12 requirements of this Protective Order. The designation shall be made at the time of production  
13 by placing: (a) the words "CONTAINS CONFIDENTIAL INFORMATION, PRODUCED BY"  
14 and the name of the producing Party on the first page of each document; and (b) the word  
15 "CONFIDENTIAL" on each confidential page of such document. Such designation shall  
16 constitute a certification by the attorney of record for the producing Party that the document so  
17 designated, or parts thereof, is in good faith claimed to be confidential because of its private  
18 financial information. In addition, such designation shall constitute a certification by the  
19 attorney of record for the producing Party that all of the following are true to the best of his or  
20 her knowledge after a reasonable inquiry:

21 a. the producing Party has taken reasonable measures to protect the  
22 confidentiality of the document and intends to continue to take such measures;

23 b. the document is not required to be disclosed, or otherwise made  
24 available, to the general public or to any federal, state, or local governmental body or agency  
25 under federal or state law, unless the document is a tax return which is required to be so  
26 disclosed but may be designated as confidential under this Protective Order nevertheless;

27 c. unlimited disclosure of the document is likely to cause substantial  
28 harm to the privacy of the producing Party;

1 d. the document was not previously provided to the producing Party  
2 from a non-party with a lawful right to it; and

3 e. the document is not already or was not in the public domain.<sup>1</sup>

4 2. The receiving Party may challenge the producing Party's designation, but  
5 unless and until such designation is overturned by the Court (or otherwise resolved) the  
6 document shall remain a "confidential document." The burden of establishing the confidentiality  
7 of any document shall be on the Party favoring confidentiality.

8 3. No confidential document shall be disclosed to any person for any purpose  
9 other than the prosecution, defense, appeal, or settlement of the above-entitled action. In  
10 addition, disclosure may only be made to the persons identified in paragraph 4 below and only in  
11 the manner provided in this Protective Order, or as necessary for pretrial or trial proceedings,  
12 unless otherwise provided by further Order of this Court, by further stipulation, or by order or  
13 subpoena of any court of competent jurisdiction.

14 4. The following persons may have access to any confidential document for  
15 purposes of the prosecution, defense, appeal, or settlement of the above-entitled action:

16 a. the Parties and their employees working on the above-entitled  
17 action;

18 b. the attorneys representing the Parties and supervisors and  
19 personnel of the attorneys' law firms and agencies as necessary for the attorneys to perform their  
20 work in connection with the above-entitled action;

21 c. the Court, employees of the Court assigned to the above-entitled  
22 action, and Court stenographic reporter, outside photocopying organization, or other litigation  
23 support provided, engaged, or retained by counsel for a Party;

24 d. deposition court reporters, transcribers, or their assistants;

25  
26  
27 <sup>1</sup> "In the public domain" means, and the requirements set forth in this Protective Order shall not apply to,  
28 documents to the extent that they: (a) are already public knowledge, i.e., demonstrably obtainable from  
public sources through legitimate means; (b) have become public knowledge (other than as a result of  
an improper disclosure by a receiving Party in the above-entitled action); or (c) have or shall come into  
the receiving Party's legitimate possession independently of the producing Party.

1 e. persons (and their assistants) not employed by a Party but retained  
2 to assist in the above-entitled action, such as experts or consultants, with disclosure only to the  
3 extent necessary to perform such work (such as an expert report);

4 f. persons who have access to the confidential document as  
5 evidenced by the material itself in that it is either to, from, or copied to such persons;

6 g. any person whose testimony is to be taken, to the extent necessary  
7 for the preparation or perpetuation of that testimony or potential testimony;

8 h. persons involved in one or more aspects of filing, organizing,  
9 coding, converting, photocopying, storing, retrieving, or designing programs for handling data  
10 connected with the above-entitled action; and

11 i. other persons qualified to have access to any confidential  
12 document by agreement of the producing Party or by further Order of the Court.

13 5. Any Party affirmatively disclosing any confidential document to any  
14 person other than the Court enumerated in paragraph 4 above shall make such person aware of  
15 this Protective Order, and such person shall agree not to disclose any confidential document to  
16 any other person except in conformance with this Protective Order.

17 6. In connection with the issuance of process to compel attendance of a  
18 witness at a deposition or other testimonial proceeding, such process may include a notice  
19 specifying that one or more confidential documents disclosed at such deposition or other  
20 proceeding is protected pursuant to the terms of this Protective Order, in which event the witness,  
21 who shall be served with a copy of this Protective Order along with the notice of deposition or  
22 subpoena, shall be deemed fully apprised and bound by the terms of this Protective Order.

23 7. Any Party who has designated a document as confidential may designate  
24 deposition or other testimony of any person related to that document as confidential, by making  
25 the designation on the record and specifically identifying the document's production number or,  
26 if a document is not numbered, its date, author, recipients, and subject matter, to the extent  
27 possible. If any confidential document is used during the testimony, portions of the transcript  
28 referring to such confidential document shall themselves be deemed confidential and subject to

1 the terms and restrictions of this Protective Order. In all other respects, the transcript shall not be  
2 treated as confidential.

3 8. Any Party may file, proffer into evidence, or address orally or in writing the  
4 contents of, any confidential document with the Court, provided that the Party provides the  
5 opposing Party sufficient notice in advance to allow for the seeking of an Order of seal or redaction.  
6 If a sealing or redaction Order issues, the Parties shall follow the Court's ECF procedures for  
7 sealing and redaction, Local Rules 140 and 141, and any pertinent Order of this Court.

8 9. Nothing in this Protective Order shall prevent or otherwise restrict any  
9 counsel from rendering advice to his or her client and, in the course thereof, relying on the  
10 examination of any confidential document.

11 10. Any Party wishing to designate a document as confidential must do so no  
12 later than 30 days before the deadline for the exchange of trial exhibits. Any party wishing to  
13 challenge a confidential document designation must do so no later than 10 days prior to the date  
14 on which Parties must exchange trial exhibits.

15 11. Nothing in this Protective Order shall prevent the Parties from seeking  
16 modification of it or from objecting to discovery or evidence on other grounds.

17 12. Nothing in this Protective Order shall modify those provisions of Local  
18 Rule 140(a) relating to omission or redaction or personal data identifiers, or those provisions of  
19 Local Rule 140(b) relating to the seeking of a protective order or order authorizing redaction  
20 before protected information is submitted.

21 B. STIPULATION TREATED AS BINDING. The Parties agree to treat the  
22 foregoing stipulation as controlling pending the Court's consideration of it.

23 RESPECTFULLY SUBMITTED,

24 DATED: March 9, 2017

DOWNEY BRAND LLP

25 By: /s/ Robert P. Soran (authorized 03/09/2017)

ROBERT P. SORAN

26 Attorneys for Defendants GOOSE POND AG, INC.,  
27 and FARMLAND MANAGEMENT SERVICES

28 CANNATA, O'TOOLE, FICKES & ALMAZAN LLP

By: /s/ Kimberly A. Almazan (authorized 03/09/2017)

KIMBERLY A. ALMAZAN

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Attorneys for Defendants ROGER J. LAPANT, Jr.,  
and J&J FARMS

PHILLIP A. TALBERT  
United States Attorney

By: /s/ Gregory T. Broderick  
GREGORY T. BRODERICK  
Assistant United States Attorney

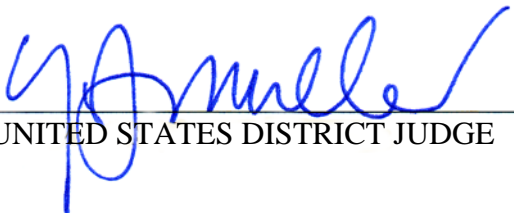
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER

In accordance with the foregoing stipulation, with the modifications reflected in paragraph 5, above, and good cause appearing.

IT IS SO ORDERED.

DATED: March 23, 2017

  
UNITED STATES DISTRICT JUDGE