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BY: *W*

<p>1 Jeffrey A. Goldberg (011496)          BRUNO, BROOKS &amp; GOLDBERG, P.C.          2 730 East Beale Street          Kingman, Arizona 86401          3 Telephone: (928) 753-6115          4 Facsimile: (928) 753-7991</p>	<p>2008 MAY 16 PM 2:56</p> <p>WILLIAM J. HANSEN          SUPERIOR COURT CLERK</p>
<p>5 Attorneys for Plaintiff Bruce R. Wisan, as          the Court-Appointed Special Fiduciary of          6 the United Effort Plan Trust</p>	

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8 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

9 IN AND FOR THE COUNTY OF MOHAVE

<p>10 STATE OF ARIZONA,          11          12 Plaintiff,          13 vs.          14 WARREN STEED JEFFES,          15 Defendant.</p>	<p>No. <u>CR-2007-0743</u> &amp;          CR-2007-953</p> <p>OBJECTION TO SUBPOENA DUCES          TECUM</p>
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17 Bruce R. Wisan, as the Court-appointed Special Fiduciary  
 18 ("Fiduciary") of the United Effort Plan Trust ("UEP" or Trust"),  
 19 hereby objects to the Subpoena Duces Tecum, dated May 9, 2008  
 20 (the "Subpoena"), issued in the above-captioned criminal  
 21 actions, as follows:  
 22

23 BACKGROUND

24 1. The Fiduciary is the Court-appointed Special Fiduciary  
 25 of the United Effort Plan Trust (the "UEP Trust") pursuant to  
 26

1 the Orders of the Third District Court of Salt Lake County,  
2 Utah, in the Matter of the United Effort Plan Trust, et al.,  
3 Case No. 0503900848 (the "Trust Probate Case").

4       2. In connection with the fulfillment of his Court-  
5 appointed duties, ~~the Fiduciary has sought to obtain copies of~~  
6 documents relevant to the UEP Trust. Such documents include the  
7 documents which were seized from Warren Jeffs' vehicle (a 2007  
8 Cadillac Escalade) at the time of his arrest in August, 2006  
9 (the "Escalade Documents").  
10

11       3. The original Escalade Documents are/were in the  
12 possession of the FBI and/or the United States Attorney's Office  
13 for the District of Utah.  
14

15       4. Copies of the Escalade Documents were provided to legal  
16 counsel for Warren Jeffs in 2006.

17       5. In 2007, the Fiduciary served subpoenas upon counsel for  
18 Warren Jeffs in the Trust Probate Case seeking production of the  
19 Escalade Documents.

20       6. Thereafter, counsel for Warren Jeffs filed an objection  
21 to the Fiduciary's subpoenas and asserted that the Escalade  
22 Documents are confidential.  
23

24       7. The Fiduciary disputed the assertion that the Escalade  
25 Documents are confidential, and filed a Motion to Compel  
26 production of the Escalade Documents in the Trust Probate Case.  
27

1           8.     Thereafter, the parties reached an agreement for  
2 resolution of the Motion to Compel. Specifically, the parties  
3 agreed to a Stipulated Protective Order which provided that the  
4 Escalade Documents would be produced to the Fiduciary while  
5 deferring resolution of the question whether the Escalade  
6 Documents are confidential. (A true and correct copy of the  
7 Stipulated Protective Order is attached hereto as Exhibit "A"  
8 and incorporated herein by reference).

10           9.     The Stipulated Protective Order provides that, until  
11 determined otherwise, the Fiduciary will treat the Escalade  
12 Documents as confidential - while reserving the right to contest  
13 the confidentiality of the Escalade Documents at any time.

15           10.    The Stipulated Protective Order was executed by the  
16 Court in the Trust Probate Case on June 27, 2007.

17           11.    Thereafter, the Fiduciary received copies of the  
18 Escalade Documents from Warren Jeffs' legal counsel in  
19 accordance with the terms of the Stipulated Protective Order.

21           12.    On May 9, 2008, the Subpoena was issued in the above-  
22 captioned case ordering the production of the Escalade Documents  
23 to the Mohave County Attorney's Office.

24           13.    The Subpoena is directed to the Fiduciary's legal  
25 counsel Jeffrey L. Shields ("Shields"), of the law firm of  
26 Callister Nebeker & McCullough. Shields has possession of the

1 Escalade Documents solely in his capacity as legal counsel for  
2 the Fiduciary, in accordance with the Stipulated Protective  
3 Order.

4 14. The Stipulated Protective Order specifies the  
5 obligations of the Fiduciary in the event that he, or his legal  
6 counsel, is served with a subpoena as to the Escalade Documents,  
7 as follows:  
8

9 In the event that the Fiduciary (or his counsel)  
10 are served with a subpoena from a third party to  
11 produce the Escalade Documents ("Third-Party  
12 Subpoena"):

13 a. The Fiduciary shall timely object to the  
14 Third-Party Subpoena;

15 b. The Fiduciary shall provide a copy of this  
16 Stipulated Protective Order to the party who  
17 arranged for the issuance of the Third-Party  
18 Subpoena;

19 c. The Fiduciary shall notify Warren S. Jeffs,  
20 Wright, Judd & Winckler and Bugden &  
21 Isaacson, LLC, that the Third-Party Subpoena  
22 has been served upon the Fiduciary;

23 d. If Warren Jeffs or his designee elects to  
24 appear in the Third-Party Subpoena compliance  
25 process, the Fiduciary hereby stipulates that  
26 Warren Jeffs is a party in interest and has  
27 standing to appear and protect the Escalade  
Documents;

e. If Warren Jeffs or his designee elects to not  
appear and defend the Escalade Documents, the  
Fiduciary shall have no further obligation or  
duty to prosecute any objection to the Third-  
Party Subpoena or protect the Escalade  
Documents.

1 Stipulated Protective Order (attached hereto as Exhibit "A"), at  
2 ¶ 25.

3 15. The Fiduciary has complied with the requirements of  
4 Paragraph 25.b. of the Stipulated Protective Order by providing  
5 a copy of the Stipulated Protective Order to the Mohave County  
6 Attorney, the party who arranged for the issuance of the  
7 Subpoena.  
8

9 16. The Fiduciary has complied with the requirements  
10 Paragraph 25.c. of the Stipulated Protective Order by notifying  
11 Warren S. Jeffs, Wright, Judd & Winckler and Bugden & Isaacson,  
12 LLC, that the Subpoena has been served upon the Fiduciary.  
13

14 17. The Fiduciary hereby complies with the requirements of  
15 Paragraph 25.a. of the Stipulated Protective Order by filing  
16 this Objection to the Subpoena.

17 **OBJECTION TO SUBPOENA**

18 The Fiduciary and Shields hereby object to the Subpoena on  
19 the grounds that the Subpoena seeks documents which are subject  
20 to the attached Stipulated Protective Order. Under the terms of  
21 the Stipulated Protective Order, the Fiduciary and Shields are  
22 required to object to the Subpoena. Except for the requirements  
23 of the Stipulated Protective Order, the Fiduciary and Shields  
24 are ready, willing, and able to comply with the Subpoena as to  
25  
26  
27

1 all of the Escalade Documents in the possession of the  
2 Fiduciary.

3 DATED: May 16<sup>th</sup>, 2008

BRUNO, BROOKS & GOLDBERG, P.C.


4  
5 By:   
6 JEFFREY A. GOLDBERG, Attorneys  
7 for Bruce Wisan, the Court-  
8 Appointed Special Fiduciary of  
9 the United Effort Plan Trust  
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EXHIBIT "A"

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2. On May 14, 2007, three of the four Subpoenaed Parties (Wally Bugden, Jr., Tara Isaacson, and Bugden & Isaacson, LLC), objected to the Subpoenas pursuant to a letter, a copy of which is attached hereto as Exhibit "A".

3. Subpoenaed Party, Warren S. Jeffs, has never objected to the subpoena served upon him.

4. On May 22, 2007, the Fiduciary filed and served upon the Subpoenaed Parties a Motion to Compel Compliance with Subpoenas ("Motion to Compel").

5. Warren S. Jeffs is represented in criminal proceedings by the law firm of Bugden & Isaacson, LLC (Wally Bugden, Jr. and Tara Isaacson), together with the law firm of Wright, Judd & Winckler (Margaret Stanish and Richard Wright).

6. This Stipulated Protective Order resolves the Motion to Compel only as to the documents described in heading I of Exhibit "A" of the Subpoenas more specifically described as follows:

"All documents which were located in the Cadillac Escalade automobile seized during the arrest of Warren Steed Jeffs in Clark County, Nevada, on August 28, 2006,...." ("Escalade Documents")

7. This Stipulated Protective Order does not resolve the Motion to Compel as to any documents described in headings II, and III of Exhibit "A" to the Subpoenas ("Other Documents").

8. As to the Other Documents, the parties to this Stipulated Protective Order hereby stipulate and agree that the Court may issue an Order to Compel.

9. The Subpoenaed Parties assert that the Escalade Documents are confidential.

10. The Fiduciary does not agree that the Escalade Documents are confidential but

agrees that until determined otherwise, the documents will be treated as confidential under the terms and conditions of this Stipulated Protective Order.

11. This Stipulated Protective Order shall not be a waiver or estoppel of the Fiduciary's right to assert that the Escalade Documents are not confidential.

12. The original Escalade Documents are currently in the possession of the FBI and/or the United States attorneys office located in Salt Lake City, Utah.

13. In connection with a federal criminal investigation and prosecution of Warren S. Jeffs, his criminal defense attorneys at Wright, Judd & Winckler obtained a copy of the Escalade Documents pursuant to a written agreement with the United States Attorney's Office, District of Utah, and Search Warrant in Mag. No. 2:06-mj-00618-PAL (D. Ct. Nev.). Federal criminal charges are currently pending against Warren S. Jeffs.

14. Within five days from the entry of this Order, the Subpoenaed Parties shall produce all of the Escalade Documents to the Fiduciary by making all electronic documents available for review and copying by the Fiduciary and/or his agents and by sending copies of all paper documents to the Fiduciary and/or his legal counsel in Salt Lake City, Utah.

15. The Fiduciary shall pay the costs of copying the Escalade Documents (including electronic documents).

16. The Fiduciary shall make a good faith effort to review and copy all of the Escalade Documents as soon as reasonably practical.

17. Without the consent of all parties to this Stipulated Protective Order or further Order of the Court, the Escalade Documents shall be treated as confidential and shall not be disclosed *except that* such documents may be disclosed to:

- (a) attorneys actively working on this case;
- (b) persons regularly employed or associated with the attorneys actively working on the case whose assistance is required by said attorneys in the preparation for trial, at trial, or at other proceedings in this case;
- (c) the parties, including designated representatives;
- (d) expert witnesses and consultants retained in connection with this proceeding, to the extent such disclosure is necessary for preparation, trial or other proceedings in this case;
- (e) the Court and its employees ("Court Personnel");
- (f) stenographic reporters who are engaged in proceedings necessarily incident to the conduct of this action;
- (g) deponents, witnesses, or any person the party has a good faith reason to believe may be a witness; and
- (h) other persons by written agreement of the parties.

18 Prior to disclosing any Escalade Documents to any person listed above (other than counsel, persons employed by counsel, Court Personnel and stenographic reporters), counsel shall provide such person with a copy of this Protective Order and obtain from such person a written acknowledgement stating that he or she has read this Protective Order and agrees to be bound by its provisions. All such acknowledgments shall be retained by counsel and shall be subject to *in camera* review by the Court if opposing counsel demonstrates good cause for review.

19. Whenever a deposition involves the disclosure of an Escalade Document, the deposition or portions thereof shall be designated as CONFIDENTIAL and shall be subject to the provisions of this Protective Order. Such designation shall be made on the record during the deposition whenever possible, but a party may designate appropriate portions of the deposition as CONFIDENTIAL after transcription, provided written notice of the designation is promptly given to all counsel of record within thirty (30) days after notice by the court reporter of the completion of the transcript.

20. Any party may object to the designation of a particular Escalade Document as CONFIDENTIAL by giving written notice to the party so designating the disputed information. The written notice shall identify the information to which the objection is made. If the parties cannot resolve the objection within ten (10) business days after the time the notice is received, it shall be the obligation of the party desiring to designate the information as CONFIDENTIAL to file an appropriate motion within twenty (20) days requesting that the Court determine whether the disputed information should be subject to the terms of this Protective Order. If such a motion is timely filed, the disputed information shall be treated as CONFIDENTIAL under the terms of this Protective Order until the Court rules on the motion. If the party designating the information as CONFIDENTIAL fails to file such a motion within the prescribed time, the disputed information shall lose its designation as CONFIDENTIAL and shall not thereafter be treated as CONFIDENTIAL in accordance with this Protective Order. In connection with a motion filed under this provision, the party designating the information as CONFIDENTIAL shall bear the burden of establishing that good cause exists for the disputed information to be treated as CONFIDENTIAL.

21. The Fiduciary or his legal representative, acting in good faith, shall seek to return as soon as practical to Wright, Judd & Winckler documents unrelated to the location of UEP assets or the administration of the UEP trust, including but not limited to, documents containing religious doctrine, religious teachings, spiritual guidance, confessions, prayers, religious ordinances, and revelations, which have no relevancy, or are otherwise cumulative of information derived from non-religious documents or other readily available sources.

22. The Fiduciary and his legal counsel shall not disclose to others the documents deemed irrelevant or unnecessary.

23. If, in the exercise of good faith, the parties are unable to resolve a dispute relating to the retention of a document by the Special Fiduciary or his legal counsel, the parties agree to seek *in camera* review of the dispute before the Third Judicial District Court of Salt Lake County in this case.

24. In the event that the parties to this litigation, their counsel, or any parties who have consented to be bound by the terms of this Protective Order in any way violate the terms or conditions of this Protective Order, said individual shall consent to the jurisdiction of this Court for the purpose of enforcing the terms of this Protective Order.

25. In the event that the Fiduciary (or his counsel) are served with a subpoena from a third party to produce the Escalade Documents ("Third-Party Subpoena"):

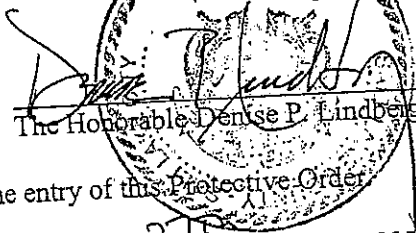
- a. The Fiduciary shall timely object to the Third-Party Subpoena;
- b. The Fiduciary shall provide a copy of this Stipulated Protective Order to the party who arranged for the issuance of the Third-Party Subpoena;

- c. The Fiduciary shall notify Warren S. Jeffs, Wright, Judd & Winckler and Bugden & Isaacson, LLC, that the Third-Party Subpoena has been served upon the Fiduciary;
- d. If Warren Jeffs or his designee elects to appear in the Third-Party Subpoena compliance process, the Fiduciary hereby stipulates that Warren Jeffs is a party in interest and has standing to appear and protect the Escalade Documents;
- e. If Warren Jeffs or his designee elects to not appear and defend the Escalade Documents, the Fiduciary shall have no further obligation or duty to prosecute any objection to the Third-Party Subpoena or protect the Escalade Documents.

26. This Protective Order may be modified by the Court at any time for good cause shown following notice to all parties and an opportunity to be heard.

DATED this 27 day of June, 2007.

BY THE COURT

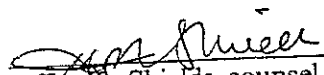


The Honorable Denise P. Lindberg

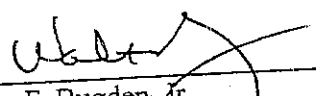
Dated 27 day of June, 2007

The parties, agree and stipulate to the entry of this Protective Order.

Dated 27<sup>th</sup> day of June, 2007.



Jeffrey M. Shields, counsel for Bruce R. Wisan, Special Fiduciary  
 Callister Nebeker & McCullough  
 Gateway Tower East, Ste 900,  
 10 East South Temple  
 Salt Lake City, Utah 84133



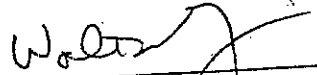
Walter F. Bugden, Jr.  
 Criminal Counsel for Warren S. Jeffs  
 Bugden & Isaacson, LLC  
 445 East 200 South, Ste. 150  
 Salt Lake City, Utah 84111

Dated 27<sup>th</sup> day of June, 2007.



Tara L. Isaacson  
Criminal Counsel for Warren S. Jeffs  
Bugden & Isaacson, LLC  
445 East 200 South, Ste. 150  
Salt Lake City, Utah 84111

Dated 27<sup>th</sup> day of June, 2007.



Bugden & Isaacson, LLC  
By: Walter F. Bugden, Jr.  
Its: Marjorie Patten  
Criminal Counsel for Warren S. Jeffs  
Its: Walter F. Bugden, Jr.  
445 East 200 South, Ste. 150  
Salt Lake City, Utah 84111

Dated \_\_\_\_ day of June, 2007.

Richard A. Wright  
Criminal Counsel for Warren S. Jeffs  
Wright, Judd & Winckler  
300 South 4th Street, Ste. 701  
Las Vegas, NV 89101

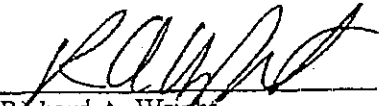
Dated \_\_\_\_ day of June, 2007.

\_\_\_\_\_  
Tara L Issacson  
Criminal Counsel for Warren S. Jeffs  
Bugden & Isaacson, LLC  
445 East 200 South, Ste. 150  
Salt Lake City, Utah 84111

Dated \_\_\_\_ day of June, 2007.

\_\_\_\_\_  
Bugden & Isaacson, LLC  
By: Walter F. Bugden, Jr.  
Its: \_\_\_\_\_  
Criminal Counsel for Warren S. Jeffs  
Its: Walter F. Bugden, Jr.  
445 East 200 South, Ste. 150  
Salt Lake City, Utah 84111

Dated 26<sup>th</sup> day of June, 2007.

  
\_\_\_\_\_  
Richard A. Wright  
Criminal Counsel for Warren S. Jeffs  
Wright, Judd & Winckler  
300 South 4th Street, Ste. 701  
Las Vegas, NV 89101