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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION

11

12 UNITED STATES,

13 Plaintiff,

14 v.

15 Gary Kovall, David Alan Heslop, Paul
Phillip Bardos, and Peggy Anne
16 Shambaugh,

17 Defendants.

18

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Case No. CR 12-000441-MWF

**THIRD PARTY TWENTY-NINE
PALMS BAND OF MISSION
INDIANS' NOTICE OF MOTION
AND MOTION TO QUASH
SUBPOENAS ISSUED BY
DEFENDANT HESLOP**

Date:

Time:

Place: Courtroom 1600

The Honorable Michael W. Fitzgerald

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PLEASE TAKE NOTICE THAT ON _____ at
_____, or as soon as this matter may be heard, in Courtroom 1600 of the
22 above-captioned court, located at 312 North Spring Street, Los Angeles, California
23 90012, third party Twenty-Nine Palms Band of Mission Indians (“the Tribe”) will
24 bring on for hearing its motion to quash the subpoenas issued by Defendant David
25 Helsop to Sheppard, Mullin, Richter & Hampton LLP in their entirety and to modify
26 the subpoenas issued to 29 Palms Band of Mission Indians, Twenty-Nine Palms
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 INTRODUCTION

4 Pursuant to Federal Rule of Criminal Procedure 17(c)(2), third party 29
5 Palms Band of Mission Indians (“the Tribe”) herein moves to quash two subpoenas
6 issued to its legal counsel, Sheppard, Mullin, Richter & Hampton LLP, and modify
7 three subpoenas issued to (a) the Tribe, (b) Twenty-Nine Palms Enterprises
8 Corporation (“Enterprises”), and (c) Echo Trail Holdings, LLC (“ETH”). All five
9 subpoenas were issued by Defendant Heslop. The entities are collectively referred
10 herein as “the Tribe.”

11 The Tribe seeks to quash the two subpoenas issued to Sheppard Mullin
12 in their entirety because they constitute nothing more than a fishing expedition and
13 directly target attorney-client and work product privileged information. One of the
14 subpoenas was issued only days ago, less than two weeks before trial. These
15 subpoenas well exceed the narrow scope of specific, relevant, and admissible
16 evidence allowed by Federal Rule of Criminal Procedure 17. Moreover, any non-
17 privileged documents called for by the subpoenas have already been directly turned
18 over to the Defendants in this case or produced in the prior civil litigation. In
19 addition to all documents turned over to Defendants by the Government pursuant to
20 Brady, at least seven different civil lawsuits have occurred between the Tribe and
21 the various Defendants, which have spanned nearly six years, during which tens of
22 thousands of pages of documents have been produced. All of the Defendants have
23 access to all of the documents produced in all of the civil litigation. Indeed, this is a
24 rare situation in the criminal context where the Defendants have had the benefit of
25 conducting extensive discovery in the civil proceedings, including deposing the key
26 witnesses.

27 The Tribe also seeks to quash the subpoenas to the extent they seek
28 testimony from its counsel of record, Sheppard Mullin. The first subpoena issued to

1 Sheppard Mullin seeks privileged documents. Thus, to the extent Defendant Heslop
2 is seeking testimony on privileged matters, this is highly improper. Mr. Freeman,
3 who is the Tribe's general counsel, has no personal knowledge of the underlying
4 criminal scheme. Defendant Heslop has not provided any explanation as to why Mr.
5 Freeman's testimony is relevant to the underlying case or any asserted defenses.
6 While Heslop's counsel has represented to the Tribe's counsel that it is only seeking
7 Mr. Freeman's testimony to authenticate any documents produced by Sheppard
8 Mullin, this representation has not been confirmed in writing. Subpoenas for
9 attorney testimony are highly intrusive on the attorney-client relationship and are
10 not condoned. Without a showing as to why Mr. Freeman's testimony is relevant
11 and cannot be obtained from other less invasive sources, the subpoenas should be
12 quashed in their entirety.

13 The Tribe also seeks to limit the scope of the three subpoenas issued to
14 the Tribe, Enterprises and ETH. The subpoena issued to the Tribe contains
15 approximately 19 separate demands for documents, the majority of which are
16 already in the Defendants' possession. The Tribe's counsel has met and conferred
17 with Heslop's counsel, agreed to produce limited documents which are relevant to
18 the underlying criminal case and may have not been produced in the underlying civil
19 litigation, and identified the specific demands which are overbroad and/or seek
20 documents which have already been produced. The Tribe herein attaches its
21 responses to each subpoena issued which identifies in detail the documents that have
22 been produced previously, the demands which are overbroad, and the additional
23 documents the Tribe is willing to produce. The Tribe has served these responses on
24 all parties, however, as of the time of filing this motion, Defendant Heslop has not
25 indicated whether he is satisfied with the identified production. Since trial is rapidly
26 approaching, the Tribe asks the Court to limit the scope of the subpoenas to the
27 identified productions to ensure that it is in compliance with its obligations.

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II.

BACKGROUND

A. The Criminal Case

Defendants Gary Kovall, Alan Heslop, Paul Bardos, and Peggy Shambaugh (collectively “Defendants”) are charged with a corrupt scheme in which they allegedly acquired and split more than a million dollars from Twenty-Nine Palms Band of Mission Indians (“the Tribe”) in their capacity as agents of the Tribe. The Defendants are charged with numerous counts concerning the making and accepting of corrupt payments amongst themselves, mail fraud, and tax evasion. The Tribe is thus the victim in the case. Trial is set to begin on February 25, 2014. The subpoenas at issue require responsive documents to be produced by February 24, 2014.

B. Prior Subpoenas

During the spring of 2013, Heslop's prior counsel, Irell Manella, served subpoenas on the Tribe, Keith Shibou, and tribal members Dean and Darrell Mike for a substantial volume of documents, nearly of all which had already been produced by the Government or in the civil litigation. The Tribe moved to quash the subpoenas and after the Court scheduled a call with all parties, Irell Manella agreed to limit the scope of the subpoenas. (Roberts Decl. ¶2, Ex. 1.) Irell Manella also provided an index to the Tribe’s counsel of all resolutions and/or ordinances it had identified in the Government and/or civil proceeding productions. (Id.) Dean and Darrell Mike and the Tribe agreed to produce meeting minutes from the Tribe and other committees and AR reports.¹

¹ The minutes produced by Dean and Darrell Mike contained redactions of attorney-client privilege information as well as non-relevant sensitive financial information since at the time of the production, the Tribe was not protected by the protective order in place in this case. After the protective order was amended to include any productions by the Tribe, the Tribe produced the

1 On November 6, 2013, Boersch Shapiro LLP substituted in as counsel
2 of record for Defendant Heslop in place of Irell Manella. (Docket Entry No. 152.)
3 Mr. Shapiro submitted a declaration stating that neither his firm nor Heslop would
4 ask for a trial continuance based on the substitution of counsel. (Docket Entry No.
5 153.)

6 C. Trial Subpoenas Issued to Tribe and Related Entities

7 Approximately a month ago, Heslop's new counsel issued trial
8 subpoenas for documents and testimony to (1) ETH, (2) Enterprises, and (3) the
9 Tribe all with a compliance date of February 24, 2014. (Roberts Decl. ¶3, Exs. 2-4.)
10 The Tribe's subpoena alone contains 19 demands for production of records, the
11 majority of which have already been previously produced in either the Government
12 productions or in the civil litigation. Notably, the Tribe's subpoena seeks the
13 production of identified resolutions which Heslop's prior counsel, Irell Manella,
14 acknowledged it already had in its possession in the index. (Cf. Exhibit 1 with
15 Exhibit 3.)

16 On January 22, 2014, the Tribe's counsel and Heslop's counsel met and
17 conferred concerning the scope of the subpoenas issued. (Roberts Decl. ¶4.)
18 During the call, the Tribe's counsel identified specific demands which sought
19 documents that had already been produced in at least the prior civil litigation, agreed
20 to confirm whether documents responsive to other demands had been produced, and
21 identify the requests which were overbroad. (Id.) Counsel agreed that the Tribe
22 would serve responses to the subpoenas specifically identifying the problematic
23 demands and the documents it was willing produce in an effort to resolve any
24 dispute. (Id.) The Tribe served these responses on all parties on February 13, 2014.
25 (Roberts Decl. ¶5, Exs. 7-11.)

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27 minutes again, with redactions of only attorney-client privileged information.
28 The Tribe has provided a privilege log concerning the redactions at the
 request of Heslop. (Roberts Decl. ¶5, Ex. 11.)

1 D. First Sheppard Mullin Subpoena

2 Thereafter, on January 30, 2014, Heslop served the first of two trial
3 subpoenas for documents and testimony on Sheppard Mullin, the Tribe’s counsel,
4 with a compliance date of February 24, 2014. The first subpoena is incredibly
5 vague and overbroad and seeks production of:

6 Any statement of or correspondence or interviews **with**
7 **any person**, including any government attorney and/or
8 **Gary Kovall, Alan Heslop, Peggy Shambaugh, and/or**
9 **Paul Bardos, and the Twenty-Nine Palms Band of**
10 **Mission of Indians (“the Tribe”), and/or Enterprises**
11 **Corporation and/or Echo Trail Holdings, LLC**, whether
12 memorialized in video tapes, transcripts, declarations,
13 letters, memoranda, notes, summaries or email, and
14 whether the statement, correspondence or interview **was**
15 **with the Tribe, the Tribe’s attorneys, or any private**
16 **investigator hired by the Tribe or the Tribe’s**
17 **attorneys.**

18 (Roberts Decl. ¶2, Exs. 5-6.) The demand does not contain any date limitation, form
19 limitation or subject matter specification. It directly targets attorney-client
20 communications and work product. Moreover, it improperly seeks testimony from
21 the Tribe’s general counsel, Mr. Freeman.

22 On February 11, 2014, Counsel for the Tribe met and conferred with
23 Heslop’s counsel regarding the scope of the subpoena. When the Tribe’s counsel
24 asked Heslop’s counsel to explain how the subpoena relevant to the underlying
25 criminal case, she vaguely explained that she hoped to obtain “exculpatory”
26 evidence through the production. (Roberts Decl. ¶6.) When the Tribe’s counsel
27 asked for a specific example, Heslop’s counsel speculated that Sheppard Mullin
28 could have conducted an interview with Dean Mike (who is Sheppard Mullin’s
client) that may contain exculpatory evidence. (*Id.*)

 Heslop’s counsel’s vague explanation and example precisely
demonstrate the problems with the subpoena. First, any communications Sheppard
Mullin had with Dean Mike, and any summary of any interview with Dean Mike,
would be subject to the attorney-client and/or work product privileges and thus,

1 protected. Second, the explanation makes clear that Heslop is not seeking
2 production of specific information but blindly striking in the hopes of obtaining
3 some possible, not identified piece of exculpatory evidence.

4 It would be impossible, not to mention unduly burdensome and
5 expensive, for the Tribe to require Sheppard Mullin to even create a privilege log of
6 all communications or summaries it has had with its clients or third parties
7 throughout the various civil proceedings and criminal case. Sheppard Mullin has
8 represented the Tribe in numerous proceedings, five of which concerned disputes
9 with various defendants. Tens of thousands of documents have been produced in
10 these cases. To require Sheppard Mullin to review its files and list all interviews,
11 conversations, or other correspondence with its clients and any third party on a
12 privilege log, which is what Heslop's counsel appears to believe is required by the
13 subpoena, would be an absolute waste of time and money and impossible to
14 complete before trial starts. Moreover, any interviews and/or other correspondence
15 called for by the subpoena that are not privileged would have likely been produced
16 in the underlying civil proceedings anyway and thus, already in Heslop's
17 possession.

18 In an effort to resolve the dispute, the Tribe proposed limiting the
19 subpoena to communications between Sheppard Mullin and the Government
20 pertaining to the investigation of the Defendants and the criminal case. (Roberts
21 Decl. ¶7, Ex. 13.) However, as of the date of the filing of this motion, the
22 Defendant Heslop has not agreed to this limitation. (Id.)

23 During the meet and confer call on February 11, Heslop's counsel also
24 represented that Mr. Freeman would only be called to testify to authenticate the
25 documents produced by Sheppard Mullin and not for any substantive testimony.
26 (Roberts Decl. 8.) However, as of the filing of this motion, Heslop's counsel has
27 not provided written confirmation of this limitation. (Id.)

28

1 E. Second Sheppard Mullin Subpoena

2 On February 12, 2014, the day after meeting and conferring with
3 Sheppard Mullin regarding the scope of the first subpoena, Heslop served a second
4 subpoena on Sheppard Mullin for documents and testimony, **less than 12 days**
5 **before the due date of production and the beginning of trial.** (Roberts Decl. ¶3,
6 Ex. 6.) The subpoena seeks any and all documents, data, recordings, or other
7 material made available to Government that relates to any civil or criminal matter
8 involving the Defendants, the Tribe, Enterprises, or ETH between January 21
9 through February 24, 2014. This subpoena, like the first one issued, is a blind
10 fishing expedition, not at all tailored to lead to the production of specific, relevant
11 and admissible evidence.

12 Moreover, the Defendants already have all of the requested documents
13 in their possession. Since the Government was not involved in the prior civil
14 litigation between the Tribe and the various Defendants and therefore does not have
15 access to all of the documents produced in the civil litigation (unlike the
16 Defendants), the Tribe agreed that the Government could review certain files
17 pertaining to the civil proceedings. The Government then identified documents in
18 these files which it had not seen previously and asked the Tribe to produce these
19 documents to it and the Defendants. (Roberts Decl. ¶9.) The Tribe then produced
20 these documents directly to the Government and the Defendants at the same time
21 through an FTP link. (Roberts Decl. ¶10.) Heslop's counsel confirmed receipt of
22 these documents. (Roberts Decl. ¶10, Ex. 14.) It is the Tribe's understanding that
23 all other documents provided to the Government in the last month leading up to trial
24 have been directly turned over to Defendants, including complete unredacted
25 minutes and the back-up documents.² The Tribe has been extremely cooperative

26 _____
27 ² As asserted numerous times in correspondence with Defendants, any inadvertent
28 production of attorney-client privilege communications and/or work product

1 throughout. Indeed, at the request of the Government, on February 14, 2014, the
2 Tribe produced electronic copies of all of relevant deposition transcripts, admissions
3 and interrogatory responses to the Government and the Defendants from the prior
4 civil litigation at the same time. (Roberts Decl. ¶12, Ex. 16.) These are documents
5 which are clearly assessable to the Defendants which the Tribe has produced once
6 again. Since the Defendants have received copies of all documents provided to the
7 Government and all other documents viewed by Government have been identified as
8 previously produced, **there is nothing that is not already in the possession of**
9 **Defendants**. It would be incredibly burdensome, expensive and intrusive to require
10 the Tribe to produce these documents once again.

11 F. Prior Civil Litigation

12 The original indictment in this case was filed on May 9, 2012.
13 However, the Defendants and the Tribe have been involved in numerous civil
14 lawsuits and arbitration, approximately seven separate proceedings, since October
15 2008. These lawsuits involved the same general circumstances which are presently
16 at issue in the criminal proceeding.

17 For example, the Tribe has been in arbitration and litigation with
18 Bardos and his company, Cadmus Construction, Inc., since October 9, 2008,
19 Arbitration No. A150257-25/ San Bernardino Superior Court Case No. 908132.
20 These proceedings concerned the very construction contracts for which the
21 Defendants allegedly made and received illegal kickbacks. Ten of thousands of
22 pages of documents were produced in discovery in these proceedings, including the
23 documents Heslop now seeks through the subpoenas in this case.

24 The Tribe also filed a lawsuit against Helsop and Shambaugh in
25 approximately October 2009 in Riverside Superior Court, Case No. RIC 10006101,

26 _____
27 contained in the unredacted minutes recently produced by the Government
28 does not constitute waiver of these privileges. FRE 502. (Roberts Decl. ¶11,
Ex. 15.)

1 Rather, the party seeking to use the subpoena under Rule 17(c) must
2 show: (1) relevancy, (2) admissibility and (3) specificity. United States v. Eden,
3 659 F.2d 1376, 1381 (9th Cir. 1981). The Defendant must show:

4 (1)that the documents are evidentiary and relevant; (2) that
5 they are not otherwise procurable reasonably in advance of
6 trial by exercise of due diligence; (3) that the party cannot
7 properly prepare for trial without such production ...; and
8 (4) that the application is made in good faith and is not
9 intended as a general ‘fishing expedition.’

10 United States v. Nixon, 418 U.S. 683, 699-700 (1974). See also Reed, 726 F.2d at
11 577 (subpoena to city for arson records properly quashed when defendants failed to
12 show relevance, request specific documents, or show that reports sought were
13 admissible); Green, 857 F. Supp. 2d at 1017 (quashing subpoena to third party
14 internet service provider since defendant failed to show prerequisite of relevancy).

15 The defendant must also show that the documents sought are not
16 available from any other source:

17 In order to justify a subpoena for production before trial,
18 the proponent must also demonstrate that the subpoenaed
19 materials are not available from any other source and their
20 examination and processing should not await trial in the
21 circumstances shown.

22 Eden, 659 F.2d at 1381 (Trial court properly quashed subpoena issued to college
23 president when defendant failed to make any showing of relevancy other than mere
24 conclusory statements and the documents provided by the government to the
25 defendant adequately covered defendants request).

26 When evaluating whether the burden of subpoena compliance is
27 “undue” so as to support quashing the subpoena, the court balances the burden on
28 the recipient of the subpoena, the relevance of the information sought to the claims
or defenses at issue in the lawsuit, the scope or breadth of the discovery request, and
the party’s need for the information. AF Holdings LLC v. Does 1-1,058, 83 Fed. R.
Serv. 3d 10 (D.D.C. 2012). The “undue burden” test also requires the court to be
sensitive to the costs imposed on third parties. Id.

1 The subpoenas issued to Sheppard Mullin are clear fishing expeditions
2 and are unduly burdensome and oppressive. For example, the first subpoena does
3 not seek production of specifically identified documents or even relevant
4 information, much less target evidence that would be admissible. It blindly seeks all
5 documents that reflect any communications with any person on any topic
6 concerning the Defendants, the Tribe or related entities, concerning the civil or
7 criminal litigation, at any period of time, in any format. Moreover, the demand,
8 which specifically seeks communications with “the Tribe, the Tribe’s attorneys, or
9 any private investigator hired by the Tribe or the Tribe’s attorneys” improperly
10 targets attorney-client communications and/or work product, which is not subject to
11 production or admissible. When asked what relevant evidence the subpoena sought,
12 Helsop’s own counsel speculated that the request could “possibly” turn up
13 “exculpatory” evidence. Such blind shots in the dark, targeted at protected
14 communications, particularly on the eve of trial, are not permitted by Rule 17.

15 It would be incredibly burdensome and expensive to the Tribe, if not
16 impossible, to even require Sheppard Mullin to prepare a privilege log of the
17 requested communications. Sheppard Mullin has represented the Tribe in numerous
18 proceedings, at least five of which have concerned the various Defendants which
19 have spanned six years. It would be impossible document every privileged
20 communication, etc., which Heslop believes to be called for by the subpoena.
21 Moreover, any non-privileged documents called for by the subpoena were likely
22 produced in the civil litigation and thus, are already in Heslop’s possession.

23 The same is true of the second subpoena issued to Sheppard Mullin, 12
24 days before trial begins. The documents reviewed by the Government were from
25 the prior civil proceedings. Unlike the Government, which was not a party to the
26 civil litigation, all of the Defendants have access to all of the files in the all of the
27 previous litigation. All of the documents produced to the Government, at its
28 request, have been turned over to the Defendants. Any other documents reviewed

1 by the Government were produced previously in either the grand jury proceedings or
2 in the civil litigation. **Thus, there is nothing the Government has reviewed or**
3 **has that the Defendants do not have.** To the extent there was any exculpatory
4 evidence in the documents viewed by the Government, it is the Government's
5 obligation to produce this evidence directly to the Defendants. There is no
6 indication that the Government has not fulfilled its obligations. It would be highly
7 burdensome, expensive and intrusive to require the Tribe to now produce these same
8 documents again on the eve of trial. The Tribe, the victim, has no obligation to
9 provide the criminal defendants with access to its files. Defendant Heslop certainly
10 has not provided the Tribe or the Government with access to his files. Accordingly,
11 both subpoenas issued to Sheppard Mullin should be quashed.

12 B. The Subpoenas Should Be Quashed Because They Seek Testimony from the
13 Tribe's Counsel

14 The subpoenas issued to Sheppard Mullin seek both production of
15 records and testimony. Mr. Richard Freeman, the Tribe's General Counsel, is
16 identified on the subpoena. Mr. Freeman has no personal knowledge of the
17 underlying criminal scheme, thus, there is no basis for subpoenaing him for
18 substantive testimony. During a meet and confer call, Heslop's counsel represented
19 to the Tribe's counsel that the subpoena only sought testimony as necessary to
20 authenticate the documents produced. However, Heslop's attorney failed to confirm
21 this in writing when asked to do so.

22 Moreover, as discussed above, the first subpoena issued to Sheppard
23 Mullin specifically targets attorney-client communications and/or work product. To
24 the extent the subpoena seeks to elicit testimony from Mr. Freeman concerning his
25 attorney-client relationship with the Tribe and/or concerning attorney-client
26 communications and/or work product, it is highly improper and must be quashed.
27 The law condemns subpoenaing attorneys as an unwarranted invasion of the
28 attorney-client relationship. See United States v. Bergeson, 425 F.3d 1221, 1225

1 (9th Cir. 2005) (affirming district court’s decision to quash grand jury subpoena to
2 defense attorney as “unreasonable or oppressive” even though testimony sought was
3 not privileged, noting “issuing subpoenas to lawyers to compel them to testify . . .
4 invites all sorts of abuse.”)

5 Heslop has not presented any reason as to why Mr. Freeman should be
6 compelled to testify or why his testimony is even relevant to the case. The subpoena
7 places an undue burden on the Tribe’s relationship with its attorney for no apparent
8 reason. Accordingly, the subpoenas should be quashed.

9 Alternatively, the Tribe requests that the subpoena be limited to require
10 testimony from Mr. Freeman solely on the issue of authenticating the documents (if
11 any) to be produced by Sheppard Mullin and that it have no impact on Mr.
12 Freeman’s ability to appear in court during trial to represent his clients, who are
13 expected to be called as witnesses at trial.

14 C. The Tribe Requests That The Court Limit Scope of the Subpoenas Issued on
15 the Tribe, Enterprises and ETH

16 The subpoenas issued to the Tribe, Enterprises, and ETH also demand
17 production of documents which are outside of the scope of the criminal case, beyond
18 the relevant time period, and have already been produced multiple times in this case
19 and/or the prior civil litigation. The Tribe however, has agreed to produce some
20 documents that are relevant to the case and may not have been previously produced
21 in the prior civil litigation. The Tribe’s objections, prior production of documents,
22 and agreement to produce specified documents are outlined in detail in each
23 individual demand in the attached responses to the subpoenas, which the Tribe
24 herein incorporates. During the meet and confer process, Heslop represented he
25 would consider limiting the scope of the subpoena based on the Tribe’s objections.
26 However, as of the date of filing this motion, Heslop has not responded to the
27 Tribe’s objections. Thus, the Tribe requests that the Court modify the subpoenas
28 accordingly.

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF LOS ANGELES
Case No. CR 12-000441-MWF**

CERTIFICATE OF SERVICE

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Diego, State of California. My business address is 12275 El Camino Real, Suite 200, San Diego, CA 92130-2006.

On February 14, 2014, I served true copies of the following document(s) described as

THIRD PARTY TWENTY-NINE PALMS BAND OF MISSION INDIANS' NOTICE OF MOTION AND MOTION TO QUASH SUBPOENAS ISSUED BY DEFENDANT HESLOP

DECLARATION OF REBECCA ROBERTS IN SUPPORT OF THIRD PARTY TWENTY-NINE PALMS BAND OF MISSION INDIANS' NOTICE OF MOTION AND MOTION TO QUASH SUBPOENAS ISSUED BY DEFENDANT HESLOP

[PROPOSED] ORDER GRANTING THIRD PARTY TWENTY-NINE PALMS BAND OF MISSION INDIANS' MOTION TO QUASH SUBPOENAS ISSUED BY DEFENDANT HESLOP

on the interested parties in this action as follows:

See Attached Service List

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address jbond@sheppardmullin.com to the persons at the e-mail addresses listed in the Service List. The document(s) were transmitted at _____ a.m./p.m. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 14, 2014, at San Diego, California.

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/s/James Bond

United States v. Gary Kovall, et al.
United States District Court
Central District of California, Los Angeles Division
Case No.: CR 12-000441-MWF

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Gary Edward Kovall
(Defendant)

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