

circumstances of the case to protect the appellee's interests. See Morgan Guar. Trust Co. of New York v. Republic of Palau, 702 F. Supp. 60, 65 (S.D.N.Y. 1988) (citing Texaco Inc. v. Pennzoil Co., 784 F.2d 1133, 1154 (2d Cir. 1986), rev'd on other grounds, 481 U.S. 1, 107 S. Ct. 1519 (1987)).

After reviewing each party's submissions, the Court finds that defendant's proffered cash bond in the amount of \$150,000 to supplement the government's existing lien will, as of now, adequately protect the government's interest while Chesir's appeal is pending. See Metz v. United States, 130 F.R.D. 458, 459-60 (D. Kan. 1990).² This, of course, assumes that, if the sale contract presently in place expires during the pendency of the appeal, the government will be able to secure a new sale contract at or above the current above-market contracted selling price of \$999,999.99. Moreover, the Court observes, since interest continues to run, an even larger pool of money will be needed to make the government whole, should it ultimately prevail. Finally, a few housekeeping conditions must be, and below are, ordered to ensure that the government's interests are secured throughout the pendency of the appeal.

In line with the foregoing, the Court grants the alternative branch of Chesir's motion for a stay pending appeal, provided the following conditions are met:

1. Defendant shall file a cash bond in the sum of \$150,000 with the Clerk of Court for the Eastern District of New York on or before July 6, 2012, which shall not be discharged without further order of this Court;
2. Defendant shall not sell, assign, transfer, convey, or encumber any interest he claims he has in the property known as 911 Avenue N, Brooklyn, New York ("the property");

² The government has previously represented that the appraised fair market value of Chesir's property is between \$800,000 and \$950,000. (Dkt. No. 40-1, ¶¶ 4-6.)

3. Defendant shall maintain the property in good repair and keep it insured against fire and casualty loss during the pendency of his appeal;
4. The government shall be added forthwith as an additional insured on each and all of defendant's fire and casualty insurance policies; and
5. The government is granted leave to move this Court, on or after September 3, 2012, to increase the amount of the required cash bond should any change in circumstances justify an increase to maintain security of the government's interests.

SO ORDERED.

Dated: Brooklyn, New York
June 28, 2012

s/ ENV

ERIC N. VITALIANO
United States District Judge