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 UNITED STATES OF AMERICA
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12 UNITED STATES DISTRICT COURT
 13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,) No. CV 04-2788 ABC (PLAx)
) CV 04-3386 ABC (PLAx)
 15 Plaintiff,) CV 04-3910 ABC (PLAx)
 16)
 v.) (Consolidated Cases)
 17)

18 REAL PROPERTY LOCATED AT 475) ~~(Proposed)~~
 MARTIN LANE, BEVERLY HILLS,) AMENDED JUDGMENT RE:
 19 CALIFORNIA,) INTERVENTION ATTORNEY'S FEES
) (AMENDING DOCKET NO. 702)
 20 Defendant.)

21 CHRISTOPHER KIM, ET AL.)
)
 22 Claimants.)

23 LAW OFFICE OF ERIC HONIG,)
 24 APLC, AND ERIC HONIG,)
)
 25 Intervenors.)

26 UNITED STATES OF AMERICA,)
 27)
 Intervenor.)
 28

1 The Court having reviewed the accompanying stipulation
2 between plaintiff United States of America and intervenors Eric
3 Honig and Law Offices of Eric Honig, APLC (collectively,
4 "Intervenors") for entry of this Amended Judgment hereby finds
5 as follows:

6 1. On July 19, 2010, the Court entered an order
7 permitting Intervenors to intervene as of right in these
8 consolidated actions pursuant to Fed. R. Civ. P. 24(a) (docket
9 no. 689 in CV 04-2878) (the "Intervention Order"). In the same
10 order, the Court held that attorney fee awards ordered in this
11 action by this Court to the Kim Claimants¹ pursuant to 28 U.S.C.
12 § 2465(b) belong and should be paid directly to Intervenors.
13 The Intervention Order was later vacated by the Ninth Circuit
14 and the matter remanded to this district court. The prior
15 stipulated Judgment entered as document 702 was dependent in
16 part upon the resolution on the merits of an appeal of the
17 Intervention Order. The fact that the Intervention Order was
18 vacated without a decision on the merits by the Ninth Circuit
19 rendered certain conditions of document 702 impossible to
20 fulfill.

21 2. Definitions of terms used in this Judgment:

22 a. "Intervention Attorney's Fees" refers to an award
23 of attorneys fees to Intervenors relating to work performed
24 solely on behalf of Intervenors to and including September 21,
25 2010; and

26 ¹ The "Kim claimants" are Christopher Kim, also known as Kyung
27 Joon Kim; Bora Lee; Erica Kim; Se Young Kim; Young Ai Kim;
28 Alexandria Investments, LLC; and First Stephora Avenue, Inc.

1 b. "Wrongful Levy Action" means the matter Law
2 Offices of Eric Honig, A.P.L.C., et al. v. United States, CV 09-
3 7568-ABC.

4 3. It is the intent of the United States and Intervenors
5 to resolve the Intervention Attorney's Fees by their
6 accompanying Stipulation, their prior Stipulation docketed as
7 document number 701 (the "agreement"), and this Amended
8 Judgment. The parties have agreed that the reasons for their
9 settlement and the terms thereof are not fully and completely
10 expressed in their agreement and that the agreement, or the fact
11 that the parties have entered into an agreement, may not be
12 used, referenced or cited in any future fee dispute. By
13 entering into their agreement and its provisions, the government
14 has not conceded (a) that it was not substantially justified
15 with respect to any positions taken in these consolidated
16 actions or the Wrongful Levy Action; (b) that Intervenors or
17 their counsel are entitled to a fee award under the Equal Access
18 to Justice Act (28 U.S.C. § 2412(d)) or any other statute; (c)
19 that any hourly rate upon which the parties' agreement is based
20 is either the true rate billed, or a reasonable rate for
21 purposes of any fee-shifting statute; (d) that any billing
22 method or practice used in this case is reasonable for the
23 purposes of any fee-shifting statute; or (e) that any amounts
24 claimed by the Intervenors were reasonably incurred by them.
25 Neither the Kim claimants, nor Intervenors, nor counsel for
26 Intervenors may cite to or rely upon the agreement or this
27 Judgment in support of an argument concerning attorney fees
28 against the Unites States (or any of its departments or

1 agencies), either to establish entitlement to fees under any
2 statute or to establish a claimed hourly rate or scope of
3 allowable work, in any federal district or appellate court.

4 4. Pursuant to the parties' Stipulation and
5 agreement, judgment is hereby entered for Intervention
6 Attorney's Fees in favor of Intervenors and against the
7 United States in the amount of \$159,760.98 (the "Settlement
8 Amount"). The United States has already paid \$79,880.49 of
9 the Settlement Amount pursuant to document 702. The
10 Payment of the remaining \$79,880.49 of the Settlement
11 Amount depends on the outcome of an appeal of the Order Re:
12 Motion to Determine Ownership of Fees entered October 5,
13 2012 and docketed as no. 1036 in this action ("Dkt. 1036").
14 If Dkt. 1036 is either affirmed in its entirety or at least
15 to the extent of awarding the unpaid balance of the
16 separate March 19, 2008 attorney's fee award in the amount
17 of \$1,172,137.90 ("the \$1,172,137.90 Fee Award") or the
18 \$282,650 supplemental attorney fee award against the
19 government ordered on January 25, 2010, Docket No. 144 in
20 Case No. CV 05-3910 (the "\$282,650 Fee Award") to
21 Intervenors, and such decision is not appealed further, or
22 certiorari is denied, or is affirmed by the United States
23 Supreme Court, or all appeals of Dkt. 1036 are dismissed,
24 then the United States shall pay the remaining \$79,880.49
25 of the Settlement Amount within 45 days after the issuance
26 of the mandate of the last court to consider the matter (or
27 within 45 days after the final denial of certiorari,
28 whichever is later). If, however, Dkt. 1036 is either

1 reversed in its entirety or at least to the extent of
2 awarding the unpaid balance of the \$1,172,137.90 Fee Award
3 or the \$282,650 Fee Award to anyone other than Intervenors,
4 and such decision is not appealed further, or certiorari is
5 denied, or is affirmed by the United States Supreme Court,
6 then the United States shall neither pay nor owe the
7 remaining \$79,880.49 of the Settlement Amount.

8 5. In consideration of the agreement, Intervenors and
9 their counsel have released and waived any claim either of them
10 may have for attorney's fees in connection with the Wrongful
11 Levy Action to and including September 21, 2010.

12 6. Except as specifically provided above, each party
13 shall bear its own costs of litigation and attorney's fees in
14 connection with the Settlement Amount. Each party waives its
15 right to appeal this Amended Judgment. The Court retains
16 jurisdiction over the intervention matter and the parties hereto
17 to effectuate the terms of the agreement. This judgment amends
18 the prior judgment entered as document 702.

19 **IT IS SO ORDERED.**

20 

21 DATED: November 7, 2012

22 _____
23 The Honorable Audrey B. Collins
24 UNITED STATES DISTRICT JUDGE
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