

1 ANDRÉ BIROTTE JR.
 United States Attorney
 2 ROBERT E. DUGDALE
 Assistant United States Attorney
 3 Chief, Criminal Division
 STEVEN R. WELK
 4 California Bar No. 149883
 Assistant United States Attorney
 5 Chief, Asset Forfeiture Section
 P. GREG PARHAM
 6 California Bar No. 140310
 KATHARINE SCHONBACHLER
 7 California Bar No. 222875
 Assistant United States Attorneys
 8 Federal Courthouse, 14th Floor
 312 North Spring Street
 9 Los Angeles, California 90012
 Telephone: (213)894-6528/3172
 10 Facsimile: (213)894-7177
 E-Mail: Steven.Welk@usdoj.gov
 11 Greg.Parham@usdoj.gov
 Katie.Schonbachler@usdoj.gov
 12

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13 Attorneys for Plaintiff
 United States of America

14 UNITED STATES DISTRICT COURT
 15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 16 WESTERN DIVISION

17 UNITED STATES OF AMERICA,)	NO. CV 09-1731 PSG (JWJx)
)	
18 Plaintiff,)	[PROPOSED]
)	
19 v.)	CONSENT JUDGMENT OF FORFEITURE
)	
20 \$1,802,651.56 IN FUNDS SEIZED)	
21 FROM E-BULLION, ET AL.,)	
)	
22 Defendants.)	
)	
23 <u>GOLDFINGER COIN & BULLION,</u>)	
INC., et al.)	
)	
24 Claimants.)	
)	
25)	

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1 Plaintiff United States of America ("plaintiff" or the
2 "government") and claimants Goldfinger Coin & Bullion, Inc.
3 ("GCB") and Goldfinger Bullion Reserve Corp. ("GBRC")
4 (collectively, "Claimants"), through their counsel, have made a
5 stipulated request for the entry of this Consent Judgment,
6 resolving this action in its entirety.

7 **Background Facts**

8 This action was commenced on March 12, 2009. (DN 1).
9 Notice was given and published in accordance with law. On May 1,
10 2009, verified claims were filed by GBRC, GCB, E-Bullion, Inc.,
11 James Fayed ("Fayed"), and the Estate of Pamela Fayed ("the
12 Estate") (collectively, the "original Claimants"). (DN 7-11).
13 The original Claimants, represented by Brown White & Newhouse,
14 LLP, filed their answers on September 24, 2009. (DN 28-32). No
15 other claims or answers were filed and the time for filing claims
16 and answers has expired.

17 The defendant assets included \$1,894,559.69 seized on August
18 12, 2008 from Bank of America ("BofA") account no XXXXX-X7358 in
19 the name of GCB¹; \$8,715.62 seized on August 14, 2008 from BofA
20 account no XXXXX-X7356 in the name GCB; \$37,303.36 seized on
21 August 14, 2008 from Wells Fargo Bank ("WFB") account no XXX-
22 XXX5942 in the name of GCB; \$70,810.88 seized on August 14, 2008
23 from WFB account no XXX-XXX3735 in the name of GCB; \$560,680.07
24 seized on August 14, 2008 from BofA account no XXXXX-X1905 in the
25 name of GCB; \$2,279,111.69 seized on August 14, 2008 from BofA
26 account no XXXXX-X9713 in the name of GCB; \$165,840.19 seized on

27
28 ¹ The full account numbers have been redacted pursuant to
Local Rule 79-5.4.

1 September 11, 2008 from BofA account no XXXXX-X7355 in the name
2 of GCB; \$472,228.34 seized on July 22, 2009 from Wells Fargo Bank
3 account #XX9326CHF maintained in the Cayman Islands by GCB;
4 currency and items of personal property seized from the offices
5 of the Goldfinger entities located on Flynn Road in Camarillo,
6 California, and listed in pages 21 through 34 of Exhibit A to the
7 First Amended Complaint ("FAC"); and items seized from a
8 residence on Baja Vista Way in Camarillo, which were listed on
9 page 35 of exhibit A to the FAC.

10 On February 3, 2010, entry of default was entered by the
11 Clerk as to the defendant \$1,802,651.56 in funds seized from E-
12 Bullion, Inc., as to which no claim had been filed. (DN 39).
13 Default judgment was entered against that asset on August 20,
14 2010. (DN 52).

15 On August 3, 2011, the government filed a First Amended
16 Complaint ("FAC") (DN 87) pursuant to an order of August 2, 2011
17 (DN 86). The original Claimants filed their answers to the FAC
18 on August 17, 2011. (DN 88-92). On January 24, 2012, attorneys
19 Jeff Berke and Kenneth Kossoff substituted into the case as
20 counsel for the Estate. (DN 100). On February 29, 2012, the
21 parties submitted a stipulation asking the Court to dismiss the
22 defendant assets that had been seized from the Baja Vista Way
23 residence and the defendant assets that had been seized from
24 Fayed's office on Flynn Road. The February 29, 2012 stipulation
25 also resulted in the withdrawal from the case of Fayed, E-
26 Bullion, Inc., and the Estate. (DN 104). The Court approved the
27 dismissal and withdrawal in an order of March 1, 2012, leaving
28 GBRC and GCB as the sole remaining claimants. (DN 105).

1 On October 7, 2010, the Commonwealth Director of Public
2 Prosecutions (part of the government of Australia) ("the CDPP")
3 filed an action in the Supreme Court of Western Australia
4 pursuant to §§ 25 and 59(1) of the Australian Proceeds of Crime
5 Act 2002 (the "Act"), seeking relief under §§ 19(1) and 49(1) of
6 the Act respectively. Specifically, by way of an ex parte
7 application the CDPP sought to restrain an account with the Perth
8 (Australia) Mint, entitled *Goldfinger Bullion Reserve Corporation*
9 *Account SEC579*, to the credit of which account stood a quantity
10 of gold and silver bullion and a sum of United States Dollars. On
11 an *inter partes* application the CDPP sought to forfeit the
12 property standing to the credit of that account (the "Australian
13 Litigation"). With effect from 30 March 2012 the Commissioner of
14 the Australian Federal Police (also part of the government of
15 Australia) was substituted in the Australian Litigation as
16 applicant, in lieu of the CDPP, pursuant to §.315B of the Act.
17 The Respondents in the Australian Litigation are GCB, GBRC, Fayed
18 and the Estate. The United States is not a party to the
19 Australian Litigation.

20 The application to forfeit the property remains pending in
21 the Australian Litigation, but is expected to be resolved
22 simultaneously with this action. Specifically, in the Australian
23 Litigation, the Australian government has agreed (pursuant to a
24 Consent Order to be presented to the Supreme Court of Western
25 Australia) to release USD \$5.1 million (the "Australian
26 Settlement Funds") to Respondents' legal representative in the
27 Australian Litigation, pursuant to § 29(1) of the Act.

28

1 The Court, having considered the stipulation of the parties,
2 and good cause appearing therefor, **HEREBY ORDERS, ADJUDGES AND**
3 **DECREES:**

4 1. The government has given and published notice of this
5 action as required by law, including Supplemental Rule G for
6 Admiralty or Maritime Claims and Asset Forfeiture Actions,
7 Federal Rules of Civil Procedure, and the Local Rules of this
8 Court. No claims or answers were filed other than those listed
9 above, and the time for filing claims and answers has expired.
10 This Court has jurisdiction over the parties to this judgment and
11 the defendant assets remaining in this case. Any potential
12 claimant to the remaining defendant assets other than the
13 original Claimants is deemed to have admitted the allegations of
14 the first amended complaint with respect to these assets.

15 2. The government shall have judgment as to the defendant
16 assets, and each of them, which are hereby forfeited and
17 condemned to the United States, and no other right, title or
18 interest shall exist therein. The government shall dispose of
19 the forfeited property according to law.

20 3. The U.S. Attorney's Office for the Central District of
21 California (the "USAO") has agreed that it shall recommend to the
22 Attorney General of the United States (and to his designee, the
23 Chief of the Asset Forfeiture and Money Laundering Section,
24 Criminal Division, Department of Justice) that the defendant
25 assets be distributed according to the remission process
26 authorized by 18 U.S.C. §981(d) ("The Attorney General shall have
27 sole responsibility for disposing of petitions for remission or
28 mitigation with respect to property involved in a judicial

1 forfeiture proceeding."). The remission process allows the
2 government to compensate victims of crime and non-culpable
3 individuals whose property is involved in crime, and is governed
4 by the regulations set out at 28 C.F.R. Part 9. Specifically,
5 the USAO shall recommend that the defendant assets be used --
6 pursuant to the governing statute and regulations -- to
7 compensate those eligible for remission, including E-Bullion
8 account holders. To the extent that any assets recovered by the
9 Australian government in the Australian Litigation are turned
10 over to the United States, the USAO shall make the same
11 recommendation for disposal of such assets.

12 4. The United States has agreed that it shall not undertake
13 any efforts to seize or forfeit any portion of the Australian
14 Settlement Funds from any of the Respondents in the Australian
15 Litigation or their counsel in connection with any of the claims
16 made in this action.

17 5. Claimants have agreed to release the United States of
18 America, its agencies, agents, and officers, including employees
19 and agents of the Federal Bureau of Investigation and the
20 Internal Revenue Service, from any and all claims, actions or
21 liabilities arising out of or related to the seizure and
22 retention of the defendant assets and/or the commencement of this
23 civil forfeiture action, including, without limitation, any claim
24 for attorneys' fees or costs which may be asserted on behalf of
25 Claimants against the United States, whether pursuant to 28
26 U.S.C. § 2465 or otherwise. This consent judgment is a
27 compromise of the contested claims in this action and is made to
28 avoid further litigation of the claims and defenses of the

1 parties in this action. Nothing in the stipulation requesting
2 entry of this Judgment, or this Judgment, constitutes or is
3 intended to be construed as an admission of any liability or
4 wrongdoing by either of the Claimants.

5 6. The Court finds that there was reasonable cause for the
6 seizure of the defendant assets and the institution of this
7 action as to the defendant assets. This judgment constitutes a
8 certificate of reasonable cause pursuant to 28 U.S.C. § 2465 as
9 to the defendant assets.

10 7. Each of the parties shall bear its own fees and costs in
11 connection with the seizure of the defendant assets and this
12 action.

13 DATED: 7/30, 2012

14
15 **PHILIP S. GUTIERREZ**
16 THE HONORABLE PHILIP S. GUTIERREZ
17 UNITED STATES DISTRICT JUDGE

18 Presented by:

19 ANDRÉ BIROTTE JR.
United States Attorney
20 ROBERT E. DUGDALE
Assistant United States Attorney
21 Chief, Criminal Division

22 /s/ Steven R. Welk
23 STEVEN R. WELK
P. GREG PARHAM
24 KATHARINE SCHONBACHLER
Assistant United States Attorneys
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