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28UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

REAL PROPERTY KNOWN AS THE
VICEROY L'ERMITAGE BEVERLY
HILLS,

Defendant.

Case No. 16-05368-DSF (PLAx)

FINAL JUDGMENT OF FORFEITURE

Upon consideration of the Unopposed Application for Entry of Final Judgment of Forfeiture (the "Application") filed by Plaintiff United States of America (the "Government") and Michael M. Eidelman, not individually, but in his capacity as court-appointed Special Master (the "Special Master" and, collectively with Government, the "Movants"), seeking entry of a Final Judgment of Forfeiture, for good cause the Court hereby finds and orders as follows:

FINDINGS

A. On July 20, 2016, the Government initiated a civil forfeiture action (the "L'Ermitage Business Assets Action") alleging that all assets relating to the business operated as the Viceroy L'Ermitage Beverly Hills (the "Business Assets"), as

1 described in Attachment A to the Government's Verified Complaint
2 for Forfeiture *In Rem* [Case No. 16-05369, Dkt. No. 1-1], are
3 subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A) and (C).

4 B. On July 20, 2016, the Government initiated a separate
5 civil forfeiture action (together with the L'Ermitage Business
6 Assets Action, the "L'Ermitage Actions") alleging that the real
7 property known as The Viceroy L'Ermitage Beverly Hills (the
8 "Property", and together with the Business Assets, the "Defendant
9 Assets"), as described in Attachment A to the Government's Verified
10 Complaint for Forfeiture *In Rem* [Case No. 16-cv-05368, Dkt. No. 1-
11 1], is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A)
12 and (C).

13 C. The Government gave and published notice of the
14 L'Ermitage Actions as required by law, including Supplemental
15 Rule G for Admiralty or Maritime Claims and Asset Forfeiture
16 Actions, the Federal Rules of Civil Procedure and the Local Rules
17 of this Court.

18 D. On November 7, 2016 and October 11, 2017, VHG Beverly
19 Hills LLC ("VHG") filed claims to the Defendant Assets. [Case
20 No. 16-cv-05368, Dkt. Nos. 35 and 130; Case No. 16-cv-05369, Dkt.
21 Nos. 37 and 131].

22 E. On March 24, 2017 and October 11, 2017, LBH Real Estate
23 (Beverly Hills) LLC ("LBH Real Estate"), JW Hospitality Ltd. ("VHG
24 INTL"), and JW Hospitality LLC (collectively and together with VHG,
25 "Claimants") filed claims to the Business Assets. [Case No. 16-cv-
26 05369, Dkt. Nos. 102 and 130]. On those same dates, LBH Real Estate
27 also filed claims to the Property. [Case No. 16-cv-05368, Dkt.
28 Nos. 101 and 129].

1 F. On November 8, 2019, the Court entered a Consent Judgment
2 of Forfeiture in each of the L'Ermitage Actions as to all Claimants
3 other than VHG (Case No. 16-cv-05368, Dkt. No. 152; Case No. 16-
4 cv-05369, Dkt. No. 153) (collectively, the "Consent Judgments"),
5 pursuant to which all Claimants other than VHG renounced any claims
6 to the Defendant Assets and any substitute *res*, and allowed any
7 interests they held therein to be forfeited to the Government.

8 G. On April 30, 2020, the Government and VHG, as the only
9 remaining parties in the L'Ermitage Actions, filed a Joint
10 Stipulation and Request for Order Authorizing Interlocutory Sale
11 of the Defendant Assets in each of the L'Ermitage Actions
12 (collectively, the "Interlocutory Sale Stipulations"). (Case No.
13 16-cv-05368, Dkt. No. 156; Case No. 16-cv-05369, Dkt. No. 157).

14 H. On May 1, 2020, the Court entered orders in each of the
15 L'Ermitage Actions: (i) finding that the Defendant Assets should
16 be sold via an interlocutory sale, with the proceeds of such sale
17 substituted as the defendant *res* in each action; and (ii) finding
18 that the procedures set forth in 28 U.S.C. §§ 2001 and 2002, which
19 statutes govern interlocutory sales of property pending forfeiture,
20 were not reasonable, appropriate or likely to yield the highest
21 price for the Defendant Assets. (Case No. 16-cv-05368, Dkt. No.
22 157; Case No. 16-cv-05369, Dkt. No. 158).

23 I. On May 5, 2020, claimant VHG withdrew all of its claims
24 to the Defendant Assets. (Case No. 16-cv-05368, Dkt. No. 158; Case
25 No. 16-cv-05369, Dkt. No. 159).

26 J. On May 5, 2020, the Court entered orders in each of the
27 L'Ermitage Actions appointing the Special Master to market and sell
28 the Defendant Assets, and approving proposed bidding and sale

1 procedures for the Special Master to sell the Defendant Assets
2 (collectively, the "Sale Procedures"). (Case No. 16-cv-05368, Dkt.
3 No. 160; Case No. 16-cv-05369, Dkt. No. 161).

4 K. On August 31, 2020, the Court entered orders in each of
5 the L'Ermitage Actions (collectively, the "Final Interlocutory Sale
6 Orders"): (i) approving the Sale of the Defendant Assets to LBVH
7 Hotel LLC (the "Purchaser") pursuant to the terms of set forth in
8 that certain Agreement for Sale and Purchase of Hotel and Joint
9 Escrow Instructions (the "Stalking Horse PSA") for a purchase price
10 of \$100,000,000.00, plus or minus prorations and adjustments as
11 set forth in the Stalking Horse PSA (the "Substitute Res"); (ii)
12 approving the Sale of the Defendant Assets free and clear of all
13 liens, claims, encumbrances and interests, including, without
14 limitation and at the option of the Stalking Horse Bidder, the
15 Management Agreement (as that term is defined in the Stalking Horse
16 PSA); (iii) authorizing the Government to consummate the Sale of
17 the Defendant Assets and transactions contemplated by the Stalking
18 Horse PSA; and (iv) finding that the Sale was conducted in
19 accordance with the Sale Procedures. (Case No. 16-cv-05368, Dkt.
20 No. 166; Case No. 16-cv-05369, Dkt. No. 165).

21 L. Based upon the Final Interlocutory Sale Orders, the
22 Government is currently holding the Substitute Res less any Sale-
23 related costs paid pursuant to paragraphs 7-8 of the Final
24 Interlocutory Sale Orders (the "Remaining Substitute Res") in the
25 United States Marshal Service's Seized Asset Deposit Fund (the
26 "SADF") pending the conclusion of the L'Ermitage Actions.

27 M. Since the closing of the Sale, the Movants and the
28 Purchaser have worked together to pay or otherwise satisfy all

1 valid claims against the Remaining Substitute Res not filed in this
2 action or otherwise payable by the Purchaser in accordance with
3 the procedures approved by the Court.

4 N. No other claims to the Defendant Assets or Substitute
5 Res were filed and the time for filing claims has expired. Each
6 of the Claimants' claims have been fully resolved.

7 O. No party has objected to the Application, the
8 disbursement of the Remaining Substitute Res, or the closure and
9 conclusion of the L'Ermitage Actions.

10 P. The Court finds, based upon the Application and the
11 record of these proceedings, the Movants have demonstrated good
12 cause to grant the Application and approve the relief sought
13 therein.

14 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

15 1. The Application is granted.

16 2. All rights, titles, and interests of Claimants and all
17 other potential claimants in and/or to the Substitute Res and
18 Remaining Substitute Res are hereby forfeited to the Government
19 pursuant to 18 U.S.C. § 981(a)(1)(A) and (C), the applicable
20 Supplemental Rules for Admiralty or Maritime Claims and Asset
21 Forfeiture Actions, the applicable Federal Rules of Civil
22 Procedure, and the applicable Local Rules of this Court.

23 3. The United States Marshals Service shall dispose of the
24 Remaining Substitute Res in accordance with applicable law, less
25 any fees and costs unpaid related to the Sale.

26 4. If any or all of the provisions of this Final Judgment
27 of Forfeiture are hereafter reversed, modified or vacated by a
28 subsequent order and/or judgment of this Court or any other court,

1 such reversal, modification or vacatur shall not affect the
2 validity and enforceability of any transfer and sale contemplated
3 hereby or obligation or right granted pursuant to the terms of this
4 Final Judgment of Forfeiture (unless stayed pending appeal), and
5 notwithstanding any reversal, modification or vacatur, shall be
6 governed in all respects by this Court's prior orders approving
7 the interlocutory sale.

8 5. The L'Ermitage Actions are hereby completed and closed.

9 6. This Final Judgment of Forfeiture shall be effective and
10 enforceable immediately upon entry and its provisions shall be
11 self-executing.

12 7. The Court shall retain jurisdiction with respect to all
13 matters arising from or related to the implementation or
14 interpretation of this Final Judgment of Forfeiture, including but
15 not limited to, any matter, claim or dispute arising from or
16 relating to the Sale of the Defendant Assets to the Purchaser, the
17 Substitute Res, the Remaining Substitute Res and/or the
18 implementation of this Final Judgment of Forfeiture.

19
20 IT IS SO ORDERED.

21
22 DATED: May 31, 2022


23 HON. DALE S. FISCHER
24 UNITED STATES DISTRICT JUDGE
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