



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

UNITED STATES DISTRICT COURT  
 FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALL RIGHT TO AND INTEREST  
 HELD OR SECURED BY THE REAL  
 PROPERTY LOCATED IN NEW  
 YORK, NEW YORK, KNOWN AS  
 THE PARK LANE HOTEL,

Defendant.

No. CV 16-5370-DSF (PLAx)

**CONSENT JUDGMENT OF  
 FORFEITURE**

On July 20, 2016, the United States (the “Government”) initiated this civil forfeiture action (the “Action”) alleging that the defendant *res* (“Defendant *Res*”) identified in Attachment A to the Government’s Verified Complaint for Forfeiture *In Rem* is subject to forfeiture pursuant to Title 18, United States Code, Sections 981(a)(1)(C) & (A). On August 4, 2017, the United States filed a First Amended Verified Complaint for Forfeiture *In Rem* (“FAC”). The FAC sought relief on the same legal basis as to the Defendant *Res*.

Notice was given according to law. Direct notice was sent to all known claimants by the United States after both the Government’s Verified Complaint for Forfeiture *In*

1 *Rem* and the FAC were filed with the Court. Notice was also published on the  
2 Government’s website [www.forfeiture.gov](http://www.forfeiture.gov) for 30 consecutive days. The time for filing  
3 claims and answers has expired in this Action.

4 Mubadala Development Company PJSC, Fifty Ninth Investment Company LLC,  
5 Sixtieth Investment Company LLC, 59<sup>th</sup> CPS Parking Blocker LLC, 59<sup>th</sup> Hotel Blocker  
6 LLC, 59<sup>th</sup> CPS Option Units Blocker LLC, Symphony CP (Park Lane) LLC, WG  
7 Partners 36 CPS LLC, Athene Annuity & Life Assurance Company, American Equity  
8 Investment Life Insurance Company, CRECB Funding III, LLC, and Wells Fargo Bank,  
9 N.A., as Administrative Agent for the Senior Lenders (collectively, the “Claimants,” and  
10 with the Government, the “Parties”) timely filed verified claims in this Action asserting  
11 an interest in the Defendant *Res*.

12 The claimants 36 CPS Condos (NYC) LLC, 36 CPS Residential Sales (NYC)  
13 Limited, 36 CPS Parking (NYC) Limited, and 36 CPS Luxury Hotel (NYC) Limited  
14 (collectively, the “36 CPS Claimants”) also filed verified claims in this Action asserting  
15 an interest in the Defendant *Res*. On November 19, 2018, the 36 CPS Claimants  
16 withdrew their claims stating that they had “determined that their interests and the  
17 interests of the [Defendant *Res*] are furthered and best served by withdrawing their  
18 claims.”

19 Now, the United States and Claimants have stipulated and agreed to a resolution  
20 of this Action. Based on the Parties’ Joint Stipulation and Request to Enter Consent  
21 Judgment of Forfeiture (the “Joint Stipulation”), and for good cause appearing, **IT IS**  
22 **ORDERED, ADJUDGED AND DECREED** that:

23 1. This Court has jurisdiction over the Action pursuant to 28 U.S.C. §§ 1345  
24 and 1355.

25 2. The United States has given and published notice of these actions as  
26 required by law, including Rule G of the Supplemental Rules for Admiralty or Maritime  
27 Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure, and the Local  
28 Rules of this Court. The time for filing claims in this Action has expired. Any potential

1 claimants to the Defendant *Res* other than the Claimants are deemed to have admitted the  
2 allegations of the FAC with respect to the Defendant *Res*. The allegations in the FAC  
3 are sufficient to provide a basis for forfeiture of the portion of the Defendant *Res* not  
4 currently held indirectly by affiliates of Mubadala Development Company PJSC (the  
5 “Subject Asset”) on the terms described herein. The Subject Asset does not include any  
6 interest in Symphony CP (Park Lane) LLC owned by WG Partners 36 CPS LLC.

7 3. The Joint Stipulation memorializes the resolution of all claims between the  
8 Government and any Party relating to or arising from this Action. Each Party shall  
9 cooperate with the other(s) to perform the acts required by the Joint Stipulation, and shall  
10 refrain from taking any action that is inconsistent with the Joint Stipulation.

11 4. The Subject Asset is hereby ordered forfeited to the United States of  
12 America and all right, title, and interest in the Subject Asset shall vest in the United  
13 States and no one else. Claimants consent to all right, title and interest in the Subject  
14 Asset being condemned and forfeited to the United States of America. The United  
15 States shall dispose of the Subject Asset in accordance with law. Pursuant and subject to  
16 the terms of a Memorandum of Understanding (the “MOU”), dated as of November 2,  
17 2018, among Mubadala Development Company PJSC, together with its affiliate Fifty  
18 Ninth Investment Company LLC, one of the Claimants (together with an affiliate or  
19 subsidiary thereof, “Buyer”), and certain affiliates of the 36 CPS Claimants, upon the  
20 satisfaction of certain conditions specified in the MOU, Buyer intends to purchase the  
21 Subject Asset from the United States, and it is the Buyer’s understanding that the United  
22 States intends to sell and transfer the Subject Asset to Buyer. Except for having  
23 consented to the United States’ sale and transfer of the Subject Asset after this Forfeiture  
24 Judgment is entered by the Court, nothing contained in the Joint Stipulation or this  
25 Forfeiture Judgment shall adversely affect the rights of any lender or other party under  
26 one or more of the loan and related agreements dated November 25, 2013 (as modified  
27 or amended, the “Loan Agreements”) pertaining to 36 Central Park South, New York,  
28 New York (“the Park Lane Hotel”) including the liens or rights of any lender or other

1 party against the collateral which secures any obligations under one or more of the Loan  
2 Agreements, including without limitation the Park Lane Hotel or any equity collateral or  
3 other collateral.

4 5. Claimants, jointly and individually, shall not file, or cause any other person  
5 or entity to file, or assist any other person or entity in filing, any claim to the Subject  
6 Asset, or in any way interfere with or delay the forfeiture of the Subject Asset. Upon  
7 request of the Government, Claimants, individually and jointly, agree to reasonably  
8 cooperate with the United States in connection with responding to any claims asserted  
9 against the Subject Asset.

10 6. All of the Government's remaining claims asserted in this Action, including  
11 in respect of the portion of the Defendant *Res* currently held indirectly by affiliates of  
12 Mubadala Development Company PJSC, are dismissed. This Forfeiture Judgment  
13 constitutes the final judgment between and among the United States of America and  
14 Claimants with respect to this Action. The Parties agree that the resolution of this matter  
15 upon the terms and conditions set forth in the Joint Stipulation and the MOU shall be the  
16 final and complete satisfaction of the claims asserted by the United States and Claimants  
17 in this Action. Claimants, jointly and individually, understand and agree that it will not  
18 seek, through any court proceeding or other process, the return of the Subject Asset.  
19 Except as otherwise provided for in the Joint Stipulation, the MOU, or the Loan  
20 Agreements, the Parties specifically waive any rights to further litigate against each other  
21 their respective interests in the Defendant *Res*. The Government's remaining claims  
22 asserted in this Action, including in respect of the portion of the Defendant *Res* currently  
23 held indirectly by affiliates of Mubadala Development Company PJSC, are dismissed.

24 7. All Parties shall bear their own fees and costs, except to the extent set forth  
25 in the MOU, or as otherwise provided for under the Loan Agreements. Except to the  
26 extent set forth in the MOU, the Parties hereby waive any and all claims against the  
27 Government for attorney's fees and costs. For the avoidance of doubt, notwithstanding  
28 the provisions of, Title 28, United States Code, Section 2465, or any other "cost" or "fee-

1 shifting” statute or regulation, Claimants, jointly and individually, expressly waive any  
2 right to seek any fees or expenses incurred related to the instant Action and/or forfeiture  
3 of the Subject Asset. Claimants, jointly and individually, and their employees,  
4 representatives, agents, assignees, and attorneys, shall forever discharge and hold  
5 harmless the United States, and any and all officers, agents, representatives, attorneys,  
6 and employees of same, from all claims, liabilities, obligations, appeals or demands,  
7 including attorney’s fees, in connection with or arising from this Action (for the  
8 avoidance of doubt, nothing contained herein shall obligate the Claimants to indemnify  
9 the United States or its officers, agents, representatives, attorneys and employees of same  
10 for attorney’s fees in this Action or any third party action).

11 8. As it pertains to this Forfeiture Judgment entered in this Action, all rights of  
12 appeal are hereby waived by all Parties. Notwithstanding the foregoing, the Parties do  
13 not waive their rights to enforce the terms of the Joint Stipulation, this Forfeiture  
14 Judgment or the MOU, which rights are expressly retained.

15 9. Reasonable cause existed for the United States to institute these  
16 proceedings, and this Forfeiture Judgment entered by the Court shall be construed as a  
17 certificate of reasonable cause pursuant to 28 U.S.C. § 2465.

18 10. Any dispute arising under the Joint Stipulation shall be governed by the  
19 laws of the United States. The exclusive jurisdiction and venue for any dispute arising  
20 between and among the Parties in connection with the Joint Stipulation is the United  
21 States District Court for the Central District of California. This Court shall retain  
22 jurisdiction to enforce the Joint Stipulation and this Forfeiture Judgment.  
23  
24  
25  
26  
27  
28

1 Dated: December 4, 2018



2  
3 UNITED STATES DISTRICT JUDGE

4  
5  
6 PRESENTED BY:

7  
8 DEBORAH CONNOR, Chief  
9 Money Laundering and  
10 Asset Recovery Section  
11 United States Department of Justice

12 WOO S. LEE  
13 BARBARA LEVY  
14 JOSHUA SOHN  
15 JONATHAN BAUM  
16 Criminal Division  
17 U.S. Department of Justice

18 NICOLA T. HANNA  
19 United States Attorney  
20 LAWRENCE S. MIDDLETON  
21 Assistant United States Attorney  
22 Chief, Criminal Division

23 STEVEN R. WELK  
24 Assistant United States Attorney  
25 Chief, Asset Forfeiture Section

26 JOHN J. KUCERA  
27 MICHAEL R. SEW-HOY  
28 Assistant United States Attorneys

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

11. The Joint Stipulation and the MOU constitutes the entire final, complete and exclusive understanding between and among the Parties with respect to the Action and supersedes all prior or contemporaneous written or oral agreements with respect to the Action. The Parties expressly acknowledge that they have not relied on any representations, warranties, agreements, or understandings not expressly contained in the Joint Stipulation or the MOU. Notwithstanding anything to the contrary in the Joint Stipulation, nothing in this Forfeiture Judgment shall limit or impair the rights or obligations of the parties to the MOU as set forth in the MOU.