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8 IN THE UNITED STATES DISTRICT COURT FOR THE  
 9 EASTERN DISTRICT OF CALIFORNIA

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11 UNITED STATES OF AMERICA,	)	1:08-CV-00229-OWW-GSA
12 Plaintiff,	)	
13 v.	)	<b>FINAL JUDGMENT OF FORFEITURE</b>
14 2005 TOYOTA TUNDRA, LICENSE	)	
15 NUMBER 7T31820,	)	
VIN: 5TBET34125S470786 ,	)	
16 Defendant.	)	

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18 Pursuant to the Stipulation for Final Judgment of Forfeiture filed herein, the Court finds:

19 1. This is a civil forfeiture action against defendant 2005 Toyota Tundra, License  
 20 Number 7T31820, VIN: 5TBET34125S470786 (hereafter "defendant vehicle").

21 2. A Verified Complaint for Forfeiture *In Rem* was filed on February 15, 2008, seeking  
 22 the forfeiture of the defendant vehicle, alleging said vehicle is subject to forfeiture to the United  
 23 States of America pursuant to 21 U.S.C. § 881(a)(4), on the grounds that the defendant vehicle  
 24 constitutes a conveyance used or intended to be used to transport, or in any manner to facilitate the  
 25 transportation, sale, receipt, possession, or concealment of a controlled substance in violation of 21  
 26 U.S.C. § 841 *et seq.*

27 3. On February 19, 2008, in accordance with said Complaint, a Warrant For Arrest of  
 28 Articles *In Rem* for the defendant vehicle was issued and duly executed on March 19, 2008.

1           4.       On or about April 11, 2008, a Public Notice of Arrest of the defendant vehicle  
2 appeared by publication in the *Business Journal*, a newspaper of general circulation in the county  
3 in which the defendant vehicle was seized (Fresno County). The Declaration of Publication was  
4 filed with the Court on April 24, 2008.

5           5.       In addition to the Public Notice of Arrest having been completed, actual notice was  
6 personally served upon Boonpheng Phiachantharath and Chansamouth Phiachantharath. Claimant  
7 Boonpheng Phiachantharath filed a Verified Claim and Answer to the Complaint on April 9, 2008.  
8 To date, no other parties have filed claims or answers in this matter, and the time for which any  
9 person or entity may file a claim and answer has expired.

10           Based on the above findings, and the files and records of the Court, it is hereby

11           ORDERED AND ADJUDGED:

12           1.       The Court adopts the Stipulation for Final Judgment of Forfeiture entered into by and  
13 between the parties to this action.

14           2.       Judgment is hereby entered against Boonpheng Phiachantharath, Chansamouth  
15 Phiachantharath, and all other potential claimants who have not filed claims in this action.

16           3.       Upon entry of this Final Judgment of Forfeiture Claimant Boonpheng Phiachantharath  
17 agrees to pay to the United States the sum of \$9,875.00 as a substitute *res* in lieu of the defendant  
18 vehicle within forty-five (45) days from the date of signing the Stipulation for Final Judgment of  
19 Forfeiture. Claimant Boonpheng Phiachantharath shall send a cashier's check in the amount of  
20 \$9,875.00 made payable to the U.S. Marshals Service. The check shall be sent to the U.S. Attorneys  
21 Office, Att: Asset Forfeiture Unit, 2500 Tulare Street, Suite 4401, Fresno, California 93721. Said  
22 \$9,875.00 shall be substituted as the *res* herein, and shall be forfeited to the United States pursuant  
23 to 21 U.S.C. § 881(a)(4), to be disposed of according to law. Upon payment of the sub *res* the  
24 United States agrees to forego any further action against the defendant vehicle based on the facts  
25 alleged in the Verified Complaint. Upon payment of the sub *res*, the United States will release the  
26 defendant vehicle to Claimant Boonpheng Phiachantharath, through his attorney, Jim T. Elia, 2300  
27 Tulare Street, Suite 140, Fresno, California 93721.

1           4.       If Claimant Boonpheng Phiachantharath fails to pay \$9,875.00 as the sub *res* herein  
2 to the United States, as provided in paragraph 3 above, then on or after the forty-fifth day from the  
3 date of signing the Stipulation for Final Judgment of Forfeiture filed herein, all right title and interest  
4 in the defendant vehicle shall be forfeited to the United States pursuant to 21 U.S.C. § 881(a)(4) to  
5 be disposed of according to law.

6           5.       Boonpheng Phiachantharath hereby acknowledges that he is the sole owner of the  
7 defendant vehicle and that no other person or entity has any legitimate claim of interest therein.

8           6.       Plaintiff United States of America and its servants, agents, and employees, and all  
9 other public entities, their servants, agents, and employees, are released from any and all liability  
10 arising out of or in any way connected with the arrest, seizure, or forfeiture of the defendant vehicle.  
11 This is a full and final release applying to all unknown and unanticipated injuries, and/or damages  
12 arising out of said arrest, seizure, or forfeiture, as well as to those now known or disclosed. The  
13 parties waive the provisions of California Civil Code § 1542, which provides: **“A general release  
14 does not extend to claims which the creditor does not know or suspect to exist in his or her  
15 favor at the time of executing the release, which if known by him or her must have materially  
16 affected his or her settlement with the debtor.”**

17           7.       Until Claimant has paid the \$9,875.00 sub *res*, Claimant Boonpheng Phiachantharath  
18 shall maintain any and all loan payments, if any, and insurance policies currently in effect with  
19 respect to the defendant vehicle, including policies covering liability to persons injured by said  
20 vehicle and for property damage to the defendant vehicle.

21           8.       Until Claimant has paid the \$9,875.00 sub *res* in full, Claimant Boonpheng  
22 Phiachantharath shall not convey, transfer, encumber, lien, or otherwise pledge the defendant vehicle  
23 without the prior written approval of the United States.

24           9.       There was reasonable cause for the seizure and arrest of the defendant vehicle, and  
25 the Court may enter a Certificate of Reasonable Cause pursuant to 28 U.S.C. § 2465.

26           10.      Pending payment of the \$9,875.00 sub *res* for forfeiture of the defendant vehicle, the  
27 Court shall maintain jurisdiction to enforce the terms of the Final Judgment of Forfeiture.

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