

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

UNITED STATES OF AMERICA,
Plaintiff,

v.

2006 ASTON MARTIN DC-9
CONVERTIBLE,
VIN: SCFAD02AX6GB04658,
LICENSE NO. 5WWZ765,
APPROXIMATELY \$145,854.46 IN U.S.
CURRENCY,
APPROXIMATELY \$83,386.27 IN U.S.
CURRENCY,
APPROXIMATELY \$3,013.99 IN U.S.
CURRENCY, and
1993 CESSNA 550 FIXED WING MULTI-
ENGINE AIRCRAFT, SERIAL NO. 550-
0725, TAIL NO. N725CC,
Defendants.

1:09-MC-00047-AWI-GSA

**ORDER REGARDING REQUEST FOR
DISMISSAL OF CERTAIN ASSETS**

**ORDER SETTING STATUS
CONFERENCE FOR DECEMBER 8, 2011**

BACKGROUND

On or about May 29, 2009, the United States of America seized an Aston Martin DC-9 Convertible, VIN: SCFAD02AX6GB04658, License No. 5WWZ765("Defendant Vehicle"). On or about June 8, 2009, the United States seized approximately \$145,854.46 in U.S. Currency, approximately \$83,386.27 in U.S. Currency, and approximately \$3,013.99 in U.S. Currency (collectively "Defendant Currency"). The Federal Bureau of Investigation has sent written notice of its intent to forfeit as required by 21 U.S.C. § 881 to all known interested parties. On or about August 7,

1 2009, Claimants filed claims, in the administrative forfeiture proceeding, with the Federal Bureau of
2 Investigation with respect to Defendant Vehicle and Defendant Currency.

3 On November 4, 2009, the United States and Claimants' attorney filed a stipulation to continue
4 the time for the United States to file a complaint for forfeiture against Defendant Vehicle and Defendant
5 Currency and/or to obtain an indictment alleging Defendant Vehicle and Defendant Currency are
6 subject to forfeiture. Because no complaint was filed, this action was opened as a miscellaneous case
7 and assigned the United States Magistrate Judge Gary S. Austin. On December 7, 2009, a second
8 stipulation was filed. The December 7, 2009 stipulation added a 1993 Cessna 550 Fixed Wing
9 Multi-Engine Aircraft, Serial No. 550-0725, Tail No. N725CC ("Defendant Cessna"), to the potential
10 action. The parties stipulated as follows: "[Defendant Cessna] does not fall under administrative
11 forfeiture eligibility however the parties herein stipulate to include the Cessna under the governments
12 requirement to file a Civil Forfeiture Complaint or Indictment alleging Forfeiture on the within
13 stipulated deadline date." Over the course of nearly two years, the parties filed seventeen stipulations
14 to continue the United States' time to file.

15 On November 4, 2011 the United States moved to dismiss with prejudice
16 Defendant Vehicle and Defendant Currently as Defendants in this action under Rule
17 41(a)(1) of the Federal Rules of Civil Procedure Rule 41(a)(1) pursuant to an agreement
18 reached by the parties' and/or claimants attorneys.

19 On November 4, 2011, the United States also asked for a further extension from
20 the court to commence a forfeiture action against Defendant Cessna, from the current
21 deadline of November 4, 2011, up to and including February 4, 2012. The United States
22 further requests that the Status Conference currently set before Magistrate Judge Gary
23 S. Austin on December 8, 2011, be continued to February 5, 2012.

24 **ORDER**

25 **IT IS HEREBY ORDERED** that the 2006 Aston Martin DC-9 Convertible, VIN:
26 SCFAD02AX6GB04658, License No. 5WWZ765, approximately \$145,854.46 in U.S.
27 Currency, approximately \$83,386.27 in U.S. Currency, and approximately \$3,013.99 in
28 U.S. Currency are **DISMISSED FROM THIS ACTION WITH PREJUDICE.**

1 **IT IS FURTHER ORDERED** that an Assistant United States Attorney
2 **SHALL** personally appear at the status conference set before Magistrate Judge
3 **Gary S. Austin on December 8, 2011. Moreover, the United States shall serve**
4 **claimants' attorney Paul L. Gabbert with a copy of this order as his personal**
5 **appearance is also required on December 8, 2011.**

6 **At the December 8, 2011 hearing the parties should be prepared to discuss**
7 **whether the court can or should grant an extension of time for the United**
8 **States to file a complaint for forfeiture and/or to obtain an indictment alleging**
9 **forfeiture with respect to the remaining Defendant Cessna.¹**

10 **IT IS SO ORDERED.**

11 Dated: November 17, 2011

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14 CHIEF UNITED STATES DISTRICT JUDGE
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28 ¹ At this time, the court takes no position on the validity of the parties' and/or claimants'
previous stipulations allowing Defendant Cessna to be included in a Civil Forfeiture Complaint or
Indictment, despite the admission that Defendant Cessna does not fall under administrative forfeiture
eligibility.