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

UNITED STATES OF AMERICA,) 1:10-mc-0017-AWI-SMS
Plaintiff,) **CONSENT JUDGMENT OF FORFEITURE**
v.)
ONE MANURHIN PISTOLET, MODEL)
P1, CALIBER 9MM FIREARM,)
Defendant.)

BRIAN BINNEY,)
Potential Claimant.)

Pursuant to the Stipulation for Consent Judgment of Forfeiture, the Court finds:

1. On March 11, 2010, Brian Binney was indicted pursuant to 18 U.S.C. § 922(g)(1).

The Indictment included a forfeiture count pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c) and listed the above-captioned property.

2. On or about February 25, 2010, officers of the Central Valley Gang Impact Task Force (hereafter “CV-GIT”) and other assisting law enforcement officers conducted a parole search of Brian Binney and his vehicle. In searching the vehicle, officers located a backpack containing a locked nylon bag. Officers searched Brian Binney’s person and located a key which opened the nylon bag where officers located a loaded semi-automatic 9mm Manurhin Pistolet P1 handgun

1 (hereafter “defendant firearm”), a holster, and three magazines. Brian Binney also has multiple prior
2 felony convictions.

3. On or about March 29, 2010, a plea agreement was entered in *U.S. v. Brian Binney*,
4 1:10-CR-00110-AWI, wherein Brian Binney pled guilty to a violation of 18 U.S.C. § 922(g)(1) -
5 Felon in Possession of a Firearm. Brian Binney has agreed to forfeit to the United States voluntarily
6 and immediately all of his right, title, and interest to any and all assets subject to forfeiture as set
7 forth in the Indictment. The defendant firearm was listed in the forfeiture allegation of the
8 Indictment. Brian Binney’s agreement to forfeit the defendant firearm was inadvertently left out of
9 the plea agreement.

10. Brian Binney acknowledges that he is the sole owner of the defendant firearm and that
11 no other person or entity has any legitimate claim of interest therein. Should any person or entity
12 institute any kind of claim or action against the government with regard to its forfeiture of the
13 defendant firearm, Brian Binney shall hold harmless and indemnify the United States, as set forth
14 below.

15. This Court has jurisdiction in this matter pursuant to 28 U.S.C. §§ 1345 and 1355,
16 as this is the judicial district in which acts or omissions giving rise to the forfeiture occurred.

17. This Court has venue pursuant to 28 U.S.C. § 1395, as this is the judicial district in
18 which the property was seized.

19. The parties herein desire to settle this matter pursuant to the terms of a duly executed
20 Stipulation for Consent Judgment of Forfeiture.

21. Based upon the above findings, and the files and records of the Court, it is hereby ORDERED
22 AND ADJUDGED:

23. The Court adopts the Stipulation for Consent Judgment of Forfeiture entered into by
24 and between the parties.

25. All right, title, and interest in the defendant firearm seized on or about February 25,
26 2010, shall be forfeited to the United States pursuant to 18 U.S.C. § 924(d), to be disposed of
27 according to law.

28. ///

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

11. Pursuant to the Stipulation for Consent Judgment of Forfeiture filed herein, the Court finds that there was reasonable cause for the seizure of the defendant firearm, and a Certificate of Reasonable Cause pursuant to 28 U.S.C. § 2465 shall be entered accordingly.

12. All parties will bear their own costs and attorneys' fees.

CERTIFICATE OF REASONABLE CAUSE

Pursuant to the Stipulation for Consent Judgment of Forfeiture filed herein, the Court enters this Certificate of Reasonable Cause pursuant to 28 U.S.C. § 2465, that there was reasonable cause for the seizure of the above-described firearm.

IT IS SO ORDERED.

Dated: April 14, 2010

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE