

1 BENJAMIN B. WAGNER  
 United States Attorney  
 2 HEATHER MARDEL JONES  
 Assistant United States Attorney  
 3 United States Courthouse  
 2500 Tulare Street, Suite 4401  
 4 Fresno, California 93721  
 Telephone: (559) 497-4000  
 5 Facsimile: (559) 497-4099  
 6 Attorneys for United States

7  
 8 IN THE UNITED STATES DISTRICT COURT FOR THE  
 9 EASTERN DISTRICT OF CALIFORNIA  
 10

11 UNITED STATES OF AMERICA,	)	1:11-CV-01687-AWI-JLT
12 Plaintiff,	)	<b>FINAL JUDGMENT OF FORFEITURE</b>
13 v.	)	
14 REAL PROPERTY LOCATED AT	)	
15 4100 EASTON DRIVE,	)	
BAKERSFIELD, KERN COUNTY,	)	
CALIFORNIA,	)	
16 APN:332-256-17 (FORMERLY APN:	)	
332-253-17), INCLUDING ALL	)	
17 APPURTENANCES AND	)	
IMPROVEMENTS THERETO, and	)	
18 REAL PROPERTY LOCATED AT	)	
19 4700 EASTON DRIVE,	)	
BAKERSFIELD, KERN COUNTY,	)	
20 CALIFORNIA,	)	
APN: 332-332-13, INCLUDING ALL	)	
21 APPURTENANCES AND	)	
IMPROVEMENTS THERETO,	)	
22 Defendants.	)	
23	)	
24	)	

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

- 27 1. This is a civil action *in rem* to forfeit to the United States of America  
 28 the real properties located at 4100 Easton Drive, Bakersfield, California, Kern

1 County, APN: 332-256-17 (formerly APN: 332-253-17), and 4700 Easton Drive,  
2 Bakersfield, California, Kern County, APN: 332-332-13, including any right, title,  
3 and interest in the whole of any lot or tract of land any appurtenances or  
4 improvements thereon (hereafter collectively “defendant real properties”) and  
5 particularly described as follows:

6 Parcel A of parcel map 4071, in the unincorporated area of the County of  
7 Kern, State of California according to the map filed April 11, 1977, in book  
8 18, page 49 of parcel maps, in the office of the county recorder of said county.  
9 Assessors Parcel No.: 332-256-17

10 and

11 Parcel B of parcel map 1417 in the city of Bakersfield, County of Kern,  
12 State of California, as per map recorded December 28, 1973 in book 8,  
13 page 96 of parcel maps, in the office of the county recorder of said  
14 county.

15 Assessors Parcel No.: 332-332-13

16 2. A Verified Complaint for Forfeiture *In Rem* was filed on October 6,  
17 2011, seeking the forfeiture of the defendant real properties, alleging said real  
18 properties are subject to forfeiture to the United States of America because the  
19 defendant real properties were used, or intended to be used, in any manner or part,  
20 to commit, or to facilitate the commission of, a violation of 21 U.S.C. § 841 *et seq.*,  
21 an offense punishable by more than one year’s imprisonment and are therefore  
22 subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(7).

23 3. On November 8, 2011, the defendant real properties were posted with  
24 a copy of the Complaint and Notice of Complaint in a manner consistent with the  
25 requirements of 18 U.S.C. § 985.

26 4. On October 14, 2011, in accordance with said Complaint, a Lis  
27 Pendens for each of the defendant real properties was filed in the chain of title.  
28 Notice of the filing of the Lis Pendens for each of the defendant real properties was  
filed with the Court on November 10, 2011.

1           5.       Public notice of the forfeiture action was published on the official  
2 internet government forfeiture site [www.forfeiture.gov](http://www.forfeiture.gov) for at least 30 consecutive  
3 days beginning December 22, 2011, as required by Rule G(4) of the Supplemental  
4 Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. The  
5 Declaration of Publication was filed with the Court on March 26, 2013.

6           6.       In addition to the publication of the forfeiture action, actual notice was  
7 personally served upon Claimant Independent Motors Service, Inc. and Claimant  
8 Nedeljko Strizak.

9           7.       On November 29, 2011, Claimants filed a Verified Claim in this action.  
10 On December 20, 2011, Claimant filed an Answer in this action. To date, no other  
11 parties have filed claims or answers in this matter, and the time for which any  
12 other person or entity may file a claim and answer has expired.

13           8.       On February 22, 2013, a settlement conference was held before United  
14 States Magistrate Judge Jennifer L. Thurston, in Bakersfield, California. A  
15 settlement was reached, and thereupon the material terms were placed on the  
16 record in open court and are fully referenced in the Stipulation for Final Order of  
17 Forfeiture filed herewith.

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

20           **ORDERED AND ADJUDGED:**

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

23           2.       That judgment is hereby entered against Claimants Independent  
24 Motors Service, Inc. and Nedeljko Strizak, and all other potential claimants who  
25 have not filed claims in this action.

26           3.       Claimant Nedeljko Strizak individually and on behalf of Independent  
27 Motor Services, Inc., (hereafter collectively referred to as "Claimants," "Strizak,"  
28 and/or "Nedeljko Strizak") shall to pay to the United States the sum of

1 \$1,675,000.00 as a substitute *res* in lieu of the defendant real properties not later  
2 than August 1, 2013. Claimants shall send a cashier's check in the amount of  
3 \$1,675,000.00 made payable to the U.S. Marshals Service to the U.S. Attorney's  
4 Office, Attn: Heather Mardel Jones, Asset Forfeiture Unit, 2500 Tulare Street,  
5 Suite 4401, Fresno, California 93721. Said \$1,675,000.00 shall be substituted as  
6 the *res* herein, and shall be forfeited to the United States pursuant to 21 U.S.C. §  
7 881(a)(7), to be disposed of according to law. It is contemplated, though not a  
8 condition herein, that Claimant may seek to refinance the defendant properties in  
9 order to satisfy the agreement herein. The United States will cooperate with  
10 Claimant in any attempt to refinance the defendant properties. The United States  
11 agrees to tender to escrow Withdrawals of Lis Pendens, to be recorded concurrently  
12 with payment to the United States of the substitute *res*. Upon payment of the  
13 substitute *res*, the United States agrees to forego any further action against the  
14 defendant real properties based on the facts alleged in the Complaint.

15 4. In the event the payment of \$1,675,000.00 is not made by August 1,  
16 2013, as provided in paragraph 3 above, the parties agree as follows:

17 a. On or after August 1, 2013, all right, title, and interest in the  
18 defendant real properties shall be forfeited to the United States, pursuant to 21  
19 U.S.C. § 881(a)(7) to be disposed of according to law.

20 b. The U.S. Marshals Service shall list the defendant real  
21 properties for sale. The U.S. Marshals Service shall have sole authority to select  
22 the means of sale, including sale by internet or through a licensed real estate broker  
23 and shall have sole authority over the marketing and sale of the defendant real  
24 properties.

25 c. The U.S. Marshals Service shall have the real properties  
26 appraised by a licensed appraiser of its choosing. The U.S. Marshals Service and  
27 the appraiser may have access to the defendant real properties and structures,  
28 buildings, or storage sheds thereon upon 24 hours telephonic notice.

1           d.     If necessary, the U.S. Marshals Service, and the real estate  
2 broker or designee of the U.S. Marshals Service, shall have the right to put a "lock  
3 box" on the properties to facilitate the marketing and sale of the properties.

4           e.     The following costs, expenses, and distributions shall be paid in  
5 escrow from the gross sales price in the following priority and to the extent funds  
6 are available:

7                   (1)    The costs incurred by the U.S. Marshals Service to the  
8                            date of close of escrow, including the cost of posting,  
9                            service, advertising, and maintenance.

10                  (2)    Any unpaid real property taxes, which shall be prorated  
11                            as of the date of entry of the Final Judgment of  
12                            Forfeiture.

13                  (3)    A real estate commission not to exceed the U.S. Marshals  
14                            Service contractual brokerage fee, and such costs of sale  
15                            as the U.S. Marshals Service may incur, including, but  
16                            not limited to, county transfer taxes.

17                  (4)    To the United States of America, the sum of  
18                            \$1,675,000.00. This sum shall be substituted as the *res* in  
19                            this forfeiture action, and shall be forfeited to the United  
20                            States pursuant to 21 U.S.C. § 881(a)(7), to be disposed of  
21                            according to law.

22                  (5)    To Claimants via their attorney Phil Ganong at 924  
23                            Truxton Avenue in Bakersfield, California 93301, all  
24                            amounts remaining after payments pursuant to ¶ 4(e)(1)  
25                            thru (4).

26           f.     Any liens or encumbrances against the defendant real properties  
27 that appear on record subsequent to recording of plaintiff's *Lis Pendens* on October  
28 14, 2011, and prior to entry of the Final Judgment of Forfeiture herein may be paid

1 out of escrow from any funds remaining after payments pursuant to ¶ 4(e)(1) thru  
2 (4). The full amount paid under this provision shall be deducted from the amount to  
3 be paid out of escrow to Claimants pursuant to ¶ 4(e)(5), above.

4 g. The costs of a lender's policy of title insurance (CLTA policy)  
5 shall be paid for by the buyer.

6 h. All loan fees, "points" and other costs of obtaining financing  
7 shall be paid for by the buyer of the defendant real properties.

8 i. Each party to this stipulation shall execute all documents  
9 necessary to close escrow.

10 5. Claimants shall maintain the defendant real properties in the  
11 same condition and repair as existed as of the date of the posting, normal wear and  
12 tear expected, until he has paid the \$1,675,000.00 payment. The term "maintain"  
13 shall include, but is not limited to, keeping the properties free of hazard and  
14 structural defects; keeping all heating, air conditioning, plumbing, electrical, gas,  
15 oil, or other power facilities in good working condition and repair; keeping the  
16 properties clean and performing such necessary sanitation and waste removal;  
17 taking all reasonable steps to ensure no violations of state or federal law occur at  
18 the properties; keeping the properties in good condition by providing for lawn and  
19 yard maintenance; and other ordinary and necessary items of routine maintenance.

20 6. Until the \$1,675,000.00 payment is made, Claimants shall maintain  
21 any and all loan payments and insurance policies currently in effect with respect to  
22 the properties, including policies covering liability to persons injured on said  
23 properties and for property damage to the defendant real properties. Claimants  
24 shall arrange for the inclusion of a rider to all of the above-mentioned policies  
25 naming the U.S. Marshals Service as the secondary beneficiary of the insurance  
26 policy.

27 7. Until the \$1,675,000.00 payment is made, Claimants shall allow the  
28 U.S. Marshals Service personnel, or its agent, the right to enter and inspect the

1 property and all buildings thereon on a monthly basis upon 24 hours telephonic  
2 notice.

3 8. Until Claimants have paid the \$1,675,000.00 in full, Claimants shall  
4 not convey, transfer, encumber, lien, or otherwise pledge the defendant real  
5 properties without the prior, written approval of the United States.

6 9. In the event payment is not made by Claimants to the United States  
7 pursuant to the Stipulation for Final Judgment of Forfeiture filed herewith, and  
8 paragraph 4 herein becomes effective, Claimants and/or all others occupying the  
9 defendant real properties shall vacate the defendant real properties within thirty  
10 (30) days after receiving notice that the defendant real properties has been placed  
11 for sale. Claimants further shall remove all of his personal possessions, and the  
12 personal possessions of any former occupant, including all vehicles, furniture, and  
13 trash, and to leave the properties clean and in the same state of repair as the  
14 properties were on the date they were posted. Any and all of Claimants' personal  
15 possessions, and the personal possessions of any former occupant, not removed  
16 within thirty (30) days of his receipt of notice that the defendant real properties  
17 have been placed on the market will be disposed of by the United States without  
18 further notice. Neither Claimants nor any occupant shall remove any fixtures from  
19 the properties. The failure to comply with this paragraph may result in sanctions,  
20 including contempt of court. Any cost incurred by the United States to evict  
21 Claimants or any of Claimants' leasees/occupants, or for disposal of personal  
22 possessions, or to repair damage to the properties, shall be deducted from the  
23 payment to Claimants as set forth in ¶ 4(e)(5) above.

24 10. That pursuant to the stipulation of the parties, and the allegations set  
25 forth in the Complaint filed October 6, 2011, the Court finds that there was  
26 reasonable cause for the filing of a lis pendens on each defendant real property, and  
27 the commencement and prosecution of this forfeiture action, and that the Court  
28 may enter a Certificate of Reasonable Cause pursuant to 28 U.S.C. § 2465.

1 11. All parties shall bear their own costs and attorneys' fees.

2 12. The Court shall maintain jurisdiction to enforce the terms of this Final  
3 Judgment of Forfeiture.

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7 CERTIFICATE OF REASONABLE CAUSE

8 Based upon the allegations set forth in the Complaint for Forfeiture *In Rem*  
9 filed October 6, 2011, and the Stipulation for Final Judgment of Forfeiture filed  
10 herein, the Court enters this Certificate of Reasonable Cause pursuant to 28 U.S.C.  
11 § 2465, that there was reasonable cause for, the filing of a lis pendens on each  
12 defendant real property and for the commencement and prosecution of this  
13 forfeiture action.

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15 IT IS SO ORDERED.

16 Dated: May 6, 2013



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18 SENIOR DISTRICT JUDGE  
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