

1 BENJAMIN B. WAGNER
United States Attorney
2 JEFFREY A. SPIVAK
Assistant United States Attorney
3 United States Courthouse
501 I Street, Suite 10-100
4 Sacramento, California 95814
Telephone: (916) 554-2700
5 Facsimile: (916) 554-2900
6 Attorney for the United States

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

10
11 UNITED STATES OF AMERICA,) 1:13-CV-01074-GSA
12 Plaintiff,)
13 v.) **SECOND STIPULATION TO**
14 APPROXIMATELY \$17,285.00 IN U.S.) **DISMISS AND ORDER**
CURRENCY,) **THEREON**
15 Defendant.)
16

17 WHEREAS, a Verified Complaint for Forfeiture *In Rem* was filed on July 12, 2013,
18 seeking forfeiture of the Defendant Approximately \$17,285.00 in U.S. Currency (hereafter
19 “Defendant Currency”) pursuant to 21 U.S.C. § 881(a)(6) (ECF #1);

20 WHEREAS, on December 16, 2014, the parties submitted a stipulation and request
21 to dismiss the instant action, with each party agreeing to bear its own attorney’s fees (the
22 “First Stipulation to Dismiss”) (ECF #37);

23 WHEREAS, on December 19, 2014, Claimant subsequently decided she wanted to
24 seek attorney’s fees, and sought permission from the Court (with the United States’
25 agreement) to withdraw the First Stipulation to Dismiss, which withdrawal was granted by
26 the Court that same day (ECF #39-41);

27 WHEREAS, after further discussions, Claimant has decided to again request that the
28

1 Court dismiss the complaint without the payment of attorney's fees, and joins the United
2 States in submitting this Second Stipulation to Dismiss.

3 IT IS HEREBY STIPULATED THAT:

4 1. The United States voluntarily moves to dismiss this action pursuant to Rule
5 41(a)(2) of the Federal Rules of Civil Procedure. Claimant does not oppose the dismissal.

6 2. The parties agree to bear their own costs and attorney's fees.

7 3. Once the action is ordered dismissed, the United States will return to
8 Claimant the assets that are the subject of this case, \$17,285.00, together with accrued
9 interest as calculated by the USMS (which amount was \$17.63 as of December 15, 2014),
10 via Claimant's attorney, Raymond N. Baker, Attorney at Law, 770 A Street, Suite 304,
11 Hayward, California 94541.

12 DATED: January 13, 2015

BENJAMIN B. WAGNER
United States Attorney

14 /s/ Jeffrey A. Spivak
15 JEFFREY A. SPIVAK
Assistant United States Attorney

16 DATED: January 9, 2015

17 /s/ Raymond N. Baker
18 RAYMOND N. BAKER
Attorney for Claimant Debra A. Pereira
(Original signature retained by attorney)

19 **ORDER**

20 Based on the stipulation of the parties set forth above, this action is dismissed
21 pursuant to Federal Rules of Civil Procedure 41(a)(1)(A)(ii) and 41(a)(2). Each party shall
22 bear its own costs and attorney's fees.
23

24
25 IT IS SO ORDERED.

26 Dated: January 14, 2015

27 /s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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