

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
10

11 CHICAGO TITLE COMPANY, a  
12 California corporation,

13 Plaintiff,

14 v.

15 PERFORMANCE WELDING &  
16 MACHINE, INC., a Nevada corporation,  
17 BRITZ AG FINANCE CO., INC., a  
18 California corporation; U.S.  
19 DEPARTMENT OF THE TREASURY–  
INTERNAL REVENUE SERVICE;  
20 STATE OF CALIFORNIA, FRANCHISE  
TAX BOARD; and DOES 1-20, inclusive,

Defendants.

No. 1:16-cv-01899-DAD-EPG

ORDER DIRECTING DISBURSEMENT OF  
FUNDS AND CLOSING CASE

21 This interpleader action was filed in Fresno County Superior Court in April 2016. (Doc.  
22 No. 1-1.) The complaint alleges plaintiff was named as trustee under a deed of trust for a  
23 property owned by defendant Performance Welding and foreclosed upon in November 2015. (*Id.*  
24 at 6–7.) After payment to the beneficiary and associated fees, a balance of \$106,330.22  
25 remained, in which each of the defendants may have had some interest or lien. (*Id.*) Plaintiff  
26 thereafter filed this action and deposited the remaining funds with the Fresno County Superior  
27 Court. (*See* Doc. No. 1-1.) The matter was removed to this court by defendant Department of the  
28 Treasury on December 20, 2016 pursuant to 28 U.S.C. § 1442(a)(1). (Doc. No. 1.) Defendant

1 Britz expressly disclaimed any interest in the funds in a filing submitted to the Fresno County  
2 Superior Court. (*See* Doc. No. 7-1.) Default was entered against defendants Performance  
3 Welding and California's Franchise Tax Board ("FTB") in the state court on October 11, 2016.  
4 (Doc. No. 7-2.)

5 On February 24, 2017, plaintiff and defendant Department of the Treasury filed a  
6 stipulation that this action be dismissed and the remaining funds be distributed to defendant  
7 Department of the Treasury. (Doc. No. 9.) The stipulation recounts that, on December 28, 2016,  
8 counsel for plaintiff also independently contacted the FTB to ensure the state tax board's default  
9 was not an oversight, and was informed that it was not an oversight and the FTB believes the  
10 federal tax lien has priority. (*Id.* at ¶ 11.)

11 Given the foregoing:

12 1. The funds deposited with the Fresno County Superior Court totaling \$106,330.22, plus  
13 all accrued interest, shall be disbursed to the United States, payable to "United States Department  
14 of Justice" and mailed to Paul T. Butler, Esq., U.S. Department of Justice, Tax Division, Civil  
15 Trial Section (Western), P.O. Box 683, Washington, D.C., 20044;

16 2. Plaintiff is discharged for any and all liability in this action with respect to the  
17 \$106,330.22 interplead with the Fresno County Superior Court;

18 3. The court will retain jurisdiction over the action to the extent necessary to enforce the  
19 parties' stipulation;

20 4. This action is dismissed and the Clerk of Court is directed to close this case.

21 IT IS SO ORDERED.

22 Dated: February 28, 2017

23   
UNITED STATES DISTRICT JUDGE