

1 BENJAMIN B. WAGNER  
 United States Attorney  
 2 KEVIN C. KHASIGIAN  
 Assistant U.S. Attorney  
 3 501 I Street, Suite 10-100  
 Sacramento, CA 95814  
 4 Telephone: (916)554-2700  
 5 Attorneys for the United States

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

11 UNITED STATES OF AMERICA,  
 12 Plaintiff,  
 13 v.  
 14 APPROXIMATELY \$1,200,000.00 IN  
 15 U.S. CURRENCY SEIZED FROM FIRST  
 CALIFORNIA BANK ACCT. NO.  
 16 2005638,  
 17 APPROXIMATELY \$225,958.84 IN U.S.  
 CURRENCY SEIZED FROM BANK OF  
 18 AMERICA ACCT. NO. 004653665607,  
 and  
 19 APPROXIMATELY \$177,695.11 IN  
 20 FUNDS CONNECTED TO A  
 TRANSFER TO THE UNITED STATES  
 21 OF AMERICA FROM BULLIVANT  
 HOUSER BAILEY,  
 22 Defendants.  
 23

2:05-CV-00149 JAM-DAD  
 STIPULATION TO DISMISS AS TO  
 ONE DEFENDANT AND ORDER  
 THEREON

24 The United States of America and claimants Judith L. Hollis on behalf of the Estate  
 25 of John W. Hollis ("Hollis"), Universal Insurance Exchange ("Universal"), and Bennett  
 26 Truck Transport, LLC ("Bennett"), stipulate as follows:

- 27 1. Universal is a general unsecured creditor of Tri-Continental Exchange Ltd.  
 28 ("TCE"), Combined Services, Ltd. ("CSL") and/or Alternative Market Exchange Ltd.

1 ("AME), collectively referred to herein as the "Debtors." Bennett asserts constructive trust  
2 and unsecured claims against the debtors and the forfeiture funds. Bennett also asserts  
3 a lien on the funds pursuant to California Code of Civil Procedure § 708.410.

4 2. The United States has filed a civil forfeiture action against the defendant  
5 funds, alleging that the funds were involved in, or are traceable to, money laundering  
6 violations committed by Robert L. Brown a.k.a. Matthew Schachter ("Brown) through  
7 TCE and CSL, and/or constitute or are derived from the proceeds of mail fraud, or a  
8 conspiracy to commit such offense, committed by Brown through TCE and CSL.

9 3. Bennett filed a Claim to all of the defendant funds on November 23, 2005,  
10 filed a Lien on Pending Action on January 10, 2006, and filed an Answer to the Complaint  
11 on January 9, 2006.

12 4. John W. Hollis ("Hollis") filed a Claim to all of the defendant funds on or  
13 about December 19, 2005.

14 5. Universal filed a Claim to all of the defendant funds on March 24, 2006, and  
15 filed an Answer to the Verified Complaint for Forfeiture *In Rem* (the "Complaint") on April  
16 11, 2006.

17 6. In a Memorandum of Opinion and Order dated July 19, 2005, (hereafter  
18 "District Court Order") this Court granted, in part, the United States's motion to dismiss  
19 Hollis's claim. This Court ruled that Hollis did not have standing to assert an interest in  
20 the \$1.2 million seized from his trust account at First California Bank Account No.  
21 2005638 (Order, at 16), nor did he have standing to assert an interest in the \$177,695.11  
22 connected to a transfer to the United States from Bullivant Houser Bailey.

23 7. This Court ruled that Hollis does have standing to assert a claim to the  
24 \$225,958.84 seized from Hollis' personal bank account at Bank of America.

25 8. Thereafter, Hollis filed an Answer to the Complaint (under seal) on  
26 September 19, 2006, and filed an Amended Answer (under seal) on September 26, 2006.

27 9. The United States and the Liquidators for the debtors (see ¶ 13(a) *infra*)  
28 entered into a stipulation to transfer the defendant funds, other than the \$225,958.84

1 described in ¶ 7, to the bankruptcy court for distribution to the debtors' creditors in  
2 accordance with all applicable laws.

3 10. On December 12, 2006, an Order was filed dismissing defendants  
4 approximately \$1.2 million seized from First California Bank Account No. 2005638, and  
5 the approximately \$177,695.11 connected to a transfer to the United States from Bullivant  
6 Houser Bailey to the Bankruptcy Court.

7 11. The United States and claimants Hollis, Bennett, and Universal now seek  
8 to dismiss this forfeiture action without prejudice, pursuant to Rule 41(a)(2) of the Federal  
9 Rules of Civil Procedure against the approximately \$225,958.84 in U.S. Currency seized  
10 from Bank of America Acct. No. 004653665607.

11 12. The rights of Bennett and Universal, if any, to the sum described in the  
12 preceding paragraph will be determined in accordance with applicable bankruptcy law,  
13 forfeiture law, and/or state law. Nothing in this stipulation is intended to adjudicate,  
14 hinder, or impair the rights of claimants to the funds, and such rights, if any, are  
15 preserved and will be addressed in the insolvency proceedings discussed below.

16 13. The facts in support of this stipulation and request for an Order are as  
17 follows:

18 a. Foreign insolvency proceedings were commenced against the  
19 Debtors in St. Vincent and the Grenadines before the Eastern  
20 Caribbean Supreme Court (the "SVG Proceedings"). A three-  
21 person Foreign Representative was duly appointed in the SVG  
22 Proceedings to serve as the Joint Liquidators (hereafter "the  
23 Liquidators") of the Debtors.

24 b. The U.S. Bankruptcy Court in the Eastern District of  
25 California has granted the Liquidator's Petition seeking  
26 recognition as the Foreign Representative of the Debtors in a  
27 procedure authorized pursuant to Chapter 15 of the United  
28 States Bankruptcy Code, 11 U.S.C. § 1501 et seq. Attached to

1 this stipulation as Ex. 1 is a copy of Judge Klein's  
2 Memorandum Decision Regarding Recognition of Foreign Main  
3 Proceeding filed September 11, 2006.

4 c. In addition, the United States and the Liquidators entered into  
5 a stipulation in which the United States agreed that it would  
6 seek dismissal of this forfeiture action so that the funds could  
7 be transferred to the Bankruptcy Court for administration. A  
8 copy of that stipulation is attached as Ex. A to Judge Klein's  
9 Order Approving Modified Stipulation Between the United  
10 States of America, the Debtors, and John W. Hollis, [hereafter  
11 "Order"] attached hereto as Ex. 2.

12 14. In addition, the United States, claimant Hollis, and the Liquidators entered  
13 into a separate stipulation in which the parties agreed that the defendant funds identified  
14 as the approximately \$225,958.84 seized from Bank of America account No. 004653665607  
15 would remain under the jurisdiction of the district court pending completion of the  
16 resolution of the competing claims to the \$225,958.84. A copy of that stipulation is  
17 attached as Ex. B to Judge Klein's Order (Ex. 2).

18 15. As noted above, the Order (Ex. 2) incorporates the stipulation between the  
19 United States and the Liquidators on behalf of the debtor, and the stipulation between  
20 claimant Hollis, the United States, and the Liquidators.

21 16. John W. Hollis passed away on June 15, 2012.

22 17. The United States contends that the funds that were seized from claimant  
23 Hollis' personal account at Bank of America (approximately \$225,958.84) also belong to  
24 TCE and CSL and should be administered in the Chapter 15 case under the supervision  
25 of the Bankruptcy Court. Judith L. Hollis, on behalf of the Estate of John W. Hollis, now  
26 agrees and stipulates that the approximately \$225,958.84 should be administered in the  
27 Chapter 15 cases of TCE and CSL under the supervision of the Bankruptcy Court.  
28 Accordingly, at this time the United States, Hollis, Universal, and Bennett seek the

1 dismissal of the forfeiture action as to the defendant approximately \$225,958.84 in U.S.  
2 Currency seized from Bank of America account No. 004653665607 to the Bankruptcy  
3 Court.

4 18. Upon dismissal of this action as to the \$225,958.84, the United States will  
5 take all steps necessary to transfer these funds from the U.S. Department of the Treasury  
6 Suspense Account to the Liquidators identified in the September 11, 2006, Memorandum  
7 Decision Regarding Recognition of Foreign Main Proceedings (Ex. 1).

8 19. The parties to this stipulation agree that there was reasonable cause for the  
9 seizure and arrest of the defendant approximately \$225,958.84 in U.S. Currency seized  
10 from Bank of America account No. 004653665607, and that the Court may enter a  
11 Certificate of Reasonable Cause pursuant to 28 U.S.C. § 2465.

12 20. The parties further stipulate that even if they receive any distribution of  
13 funds in the bankruptcy proceedings, that distribution is not to be considered as a  
14 "judgment for the claimant" within the meaning of 28 U.S.C. § 2465(a), nor will that  
15 claimant be considered a "prevailing party" within the meaning of 28 U.S.C. § 2465(b).

16 21. Any claimant's entitlement to costs or attorney fees will be determined solely  
17 in accordance with applicable law. Under no circumstances will the United States be  
18 liable for costs or attorney fees incurred by claimants in this forfeiture action or in the

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1 bankruptcy proceedings.

2 22. There are no other terms or conditions other than those specified herein.

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4 DATED: 9-19-13

BENJAMIN B. WAGNER  
United States Attorney

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By: /s/ Kevin C. Khasigian  
KEVIN C. KHASIGIAN  
Assistant U.S. Attorney

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9 DATED: 9-17-13

/s/ Judith L. Hollis  
JUDITH L. HOLLIS  
On behalf of the Estate of Claimant  
John W. Hollis

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13 DATED: 9-17-13

/s/ Tim Warriner  
TIM WARRINER  
Attorney for Judith L. Hollis

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16 DATED: 6-19-13

/s/ Thomas R. Phinney  
THOMAS R. PHINNEY  
Attorneys for Claimant Bennett  
Truck Transport, LLC

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20 DATED: 7/2/13

/s/ Gregory J. Hughes  
GREGORY J. HUGHES  
Attorneys for Universal  
Insurance Exchange

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(Signatures retained by attorney)

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24 **IT IS SO ORDERED.**

25 DATED: 9/23/2013

/s/ John A. Mendez  
JOHN A. MENDEZ  
United States District Court Judge

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CERTIFICATE OF REASONABLE CAUSE

Pursuant to the Stipulation for Dismissal and the allegations set forth in the Complaint for Forfeiture *In Rem* filed January 24, 2005, 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 funds identified as the approximately \$225,958.84 in U.S. Currency seized from Bank of America account No. 004653665607.

DATED: 9/23/2013

/s/ John A. Mendez  
JOHN A. MENDEZ  
United States District Court Judge