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Attorney for Plaintiff

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

APPROXIMATELY \$23,770.87 IN U.S.  
CURRENCY SEIZED FROM BANK OF  
AMERICA ACCOUNT NO. 0050 1112 8989,  
HELD IN THE NAME OF G&R EMPIRE,  
LLC,

APPROXIMATELY \$6,741.29 IN U.S.  
CURRENCY SEIZED FROM BANK OF  
AMERICA ACCOUNT NO. 0050 1113 0692,  
HELD IN THE NAME OF PHOENIX CASH &  
CARRY, LLC,

APPROXIMATELY \$9,774.73 IN U.S.  
CURRENCY SEIZED FROM BANK OF  
AMERICA ACCOUNT NO. 0049 6875 8911,  
HELD IN THE NAME OF IDEAL TOBACCO,  
WHOLESALE, INC.,

APPROXIMATELY \$7,054.55 IN U.S.  
CURRENCY SEIZED FROM WELLS FARGO  
BANK ACCOUNT NO. 671-0134131, HELD  
IN THE NAME OF BITTAR FAMILY TRUST,

APPROXIMATELY \$31,402.20 IN U.S.  
CURRENCY SEIZED FROM WELLS FARGO  
BANK ACCOUNT NO. 091-1704013, HELD  
IN THE NAME OF RAED MOURI AND

2:08-cv-2752 JAM-GGH

**STIPULATION FOR  
INTERLOCUTORY SALE OF  
DEFENDANT TOBACCO PRODUCTS  
AND ORDER**

DATE: N/A  
TIME: N/A  
COURTROOM: N/A

1 LOUDY EGHO, )  
2 )  
3 APPROXIMATELY \$29,095.02 IN U.S. )  
4 CURRENCY SEIZED FROM WELLS FARGO )  
5 BANK ACCOUNT NO. 071-0335696, HELD )  
6 IN THE NAME OF BITTAR FAMILY TRUST, )  
7 )  
8 APPROXIMATELY 6,954 TOTAL BOXES OF )  
9 ASSORTED SMOKEABLE OTP EVIDENCE )  
10 (CONTAINING APPROXIMATELY 431,447 )  
11 UNITS OF SMOKEABLE OTP) RECOVERED )  
12 FROM IDEAL TOBACCO WHOLESALE, )  
13 )  
14 APPROXIMATELY 22 TOTAL BOXES OF )  
15 SMOKEABLE OTP EVIDENCE (CONTAINING )  
16 APPROXIMATELY 1,350 UNITS OF )  
17 SMOKEABLE OTP) RECOVERED FROM THE )  
18 ABF DELIVERY TRUCK AT IDEAL )  
19 TOBACCO WHOLESALE, AND )  
20 )  
21 APPROXIMATELY 87,595 UNITS OF )  
22 ASSORTED SMOKEABLE OTP EVIDENCE )  
23 RECOVERED FROM PHOENIX CASH & )  
24 CARRY, )  
25 )  
26 Defendants. )  
27 )  
28 )

15 Plaintiff United States of America, by and through Kristin S.  
16 Door, Assistant United States Attorney for the Eastern District of  
17 California, and claimants Phoenix Cash & Carry LLC and Ideal  
18 Tobacco Wholesale, Inc., (hereafter "claimants") by and through  
19 their respective undersigned attorneys, submit the following  
20 stipulation, pursuant to 18 U.S.C. §§ 981(g)(6) and Rule E(9) of  
21 the Supplemental Rules for Admiralty or Maritime Claims and Asset  
22 Forfeiture Actions, for an order authorizing sale of the tobacco  
23 products listed in the caption above.

24 It is hereby stipulated and agreed as follows:

25 1. Plaintiff alleges that the defendant tobacco products are  
26 subject to seizure and forfeiture pursuant to, *inter alia*, 18  
27 U.S.C. §§ 981(a)(1)(A) and (C). Claimants dispute the United  
28

1 States' allegations.

2 2. The defendant tobacco products identified in the caption  
3 above as (1) "Approximately 6,954 Total Boxes of Assorted Boxes of  
4 Assorted Smokeable OTP Evidence (containing approximately 431,447  
5 units of smokeable OTP)" and (2) "Approximately 22 Total Boxes of  
6 Smokeable OTP Evidence (containing approximately 1,350 units of  
7 smokeable OTP) Recovered From the ABF Delivery Truck" were seized  
8 on or about August 13, 2008, in Las Vegas, Nevada. The defendant  
9 tobacco products identified in the caption above as "Approximately  
10 87,595 Units of Assorted Smokeable OTP" were seized on or about  
11 August 13, 2008, in Phoenix, Arizona.

12 3. The tobacco products are considered perishable property,  
13 and in order to preserve the value of this property, said property  
14 should be sold and the proceeds held as a substitute res pending  
15 completion of any action to forfeit the property.

16 4. The sale shall be conducted by the United States Bureau  
17 of Alcohol, Tobacco, Firearms, and Explosives (AFT) or its  
18 contractor for asset forfeiture matters, in a commercially  
19 reasonable manner at a public or private sale to qualified buyers  
20 consistent with applicable state and federal law relating to  
21 tobacco products.

22 5. The net proceeds of the sale will include all funds  
23 realized from the sale of the tobacco products less expenses  
24 incurred by AFT since the date of seizure, and expenses related to  
25 the sale, including but not limited to:

- 26 a. Storage and transportation expenses;  
27 b. Sales commissions, if any; and

1 c. Sale costs.

2 6. The net proceeds shall be deposited into the Department  
3 of Justice Seized Asset Deposit Fund, and shall be substituted for  
4 the tobacco products identified in the caption above.

5 7. Upon deposit of said funds, plaintiff shall advise the  
6 Court and claimants of the amount of the substitute *res.*

7

8 Respectfully submitted,

9 Dated: April 13, 2009

LAWRENCE G. BROWN  
Acting United States Attorney

10

11 By /s/ Kristin S. Door  
12 KRISTIN S. DOOR  
13 Assistant U.S. Attorney  
Attorneys for Plaintiff  
United States of America

14

15

16 Dated: April 9, 2009

17 /s/ Jeffrey B. Setness  
JEFFREY B. SETNESS  
18 Mayall, Hurley, Knutsen,  
Smith & Green  
Attorneys for Phoenix Cash & Carry  
19 LLC and Ideal Tobacco Wholesale,  
Inc.

20

21 (Original signatures retained by AUSA  
Door)

22 ORDER

23 The Court, having reviewed the foregoing Stipulation and good  
24 cause appearing,

25 1. The Stipulation is hereby APPROVED.

26 2. Plaintiff and claimants have agreed to the interlocutory  
27 sale of the defendant tobacco products.

28

3. The tobacco products shall be sold at a sale conducted at the direction of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), its agents, employees, representatives, and/or contractors.

4. The sale shall be conducted in a commercially reasonable manner at a public or private sale to qualified buyers consistent with applicable state and federal laws relating to tobacco products.

5. The net proceeds from the sale of the tobacco products will include all funds realized from the sale of the tobacco products less expenses incurred by AFT since the date of seizure, and expenses related to the sale, including but not limited to:

- a. Storage and transportation expenses;
- b. Sales commissions, if any; and
- c. Sale costs.

6. The net proceeds shall be deposited into the Department of Justice Seized Asset Deposit Fund, and shall be substituted for the tobacco products identified in the caption above. Upon deposit of said funds, plaintiff shall advise the Court and claimants of the amount of the substitute *res*.

7. Any forfeiture action shall proceed against the substitute res in lieu of the tobacco products sold pursuant to this stipulation.

Dated: April 13, 2009

IT IS SO ORDERED.

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