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

11 UNITED STATES OF AMERICA,)	2:09-cv-0111 JAM-GGH
)	
12 Plaintiff,)	STIPULATION FOR
)	INTERLOCUTORY SALE OF
13 v.)	DEFENDANT TOBACCO PRODUCTS
)	AND ORDER
14 APPROXIMATELY \$4,023.00 IN U.S.)	
CURRENCY,)	
15 APPROXIMATELY \$1,280.00 IN U.S.)	DATE: N/A
CURRENCY,)	TIME: N/A
16 APPROXIMATELY \$6,268.00 IN U.S.)	COURTROOM: N/A
CURRENCY,)	
17 APPROXIMATELY \$5,510.00 IN U.S.)	
CURRENCY, and)	
18 APPROXIMATELY 169 Boxes of)	
SMOKELESS TOBACCO,)	
19)	
20)	
21 Defendants.)	
22)	

23 Plaintiff United States of America, by and through Kristin S.
 24 Door, Assistant United States Attorney for the Eastern District of
 25 California, and claimant Ideal Tobacco Wholesale, Inc., (hereafter
 26 "claimants") by and through their respective undersigned attorneys,
 27 submit the following stipulation, pursuant to 18 U.S.C. §§

1 981(g) (6) and Rule E(9) of the Supplemental Rules for Admiralty or
2 Maritime Claims and Asset Forfeiture Actions, for an order
3 authorizing sale of the tobacco products listed in the caption
4 above.

5 It is hereby stipulated and agreed as follows:

6 1. Plaintiff alleges that the defendant tobacco products are
7 subject to seizure and forfeiture pursuant to, *inter alia*, 18
8 U.S.C. §§ 981(a) (1) (A) and (C). Claimants dispute the United
9 States' allegations.

10 2. The defendant tobacco products identified in the caption
11 above as "Approximately 169 Boxes Smokeless Tobacco." These
12 defendant tobacco products were seized on or about August 13, 2008,
13 in Las Vegas, Nevada.

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

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

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

28

1 a. Storage and transportation expenses;

2 b. Sales commissions, if any; and

3 c. Sale costs.

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

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

9 Respectfully submitted,

10 Dated: April 13, 2009

LAWRENCE G. BROWN
Acting United States Attorney

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

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15 Dated: April 9, 2009

/s/ Jeffrey B. Setness
JEFFREY B. SETNESS
Mayall, Hurley, Knutsen,
Smith & Green
Attorneys for Ideal Tobacco
Wholesale, Inc.

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(Original signatures retained by AUSA
Door)

20

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ORDER

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

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1. The Stipulation is hereby APPROVED.

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

27

3. The tobacco products shall be sold at a sale conducted at

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1 the direction of the Bureau of Alcohol, Tobacco, Firearms, and
2 Explosives (ATF), its agents, employees, representatives, and/or
3 contractors.

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

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

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

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

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

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24 Dated: *April 13, 2009*

25 IT IS SO ORDERED.

26

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

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