

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

BENJAMIN B. WAGNER
United States Attorney
KEVIN C. KHASIGIAN
Assistant U. S. Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814
Telephone: (916) 554-2700

Attorneys for the United States

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

2:09-CV-00111-JAM-CKD

FINAL JUDGMENT OF
FORFEITURE

APPROXIMATELY \$4,023.00 IN U.S.
CURRENCY,

APPROXIMATELY \$1,280.00 IN U.S.
CURRENCY,

APPROXIMATELY \$6,268.00 IN U.S.
CURRENCY,

APPROXIMATELY \$5,510.00 IN U.S.
CURRENCY, and

APPROXIMATELY 169 Boxes of
SMOKELESS TOBACCO,

Defendants.

Pursuant to the Stipulation for Final Judgment of Forfeiture, the Court finds:

- 1. This is a civil forfeiture action against the above captioned assets (hereafter “defendant properties”) seized on or about August 13, 2008.
- 2. A Verified Complaint for Forfeiture *In Rem* (“Complaint”) was filed on January 13, 2009, alleging that the above captioned defendant properties are subject to

1 forfeiture to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 2344(c).

2 3. On or about January 14, 2009, the Clerk issued a Warrant for Arrest for the
3 defendant properties, and that warrant was executed on January 15, 2009, and May 22,
4 2009.

5 4. Beginning on January 21, 2009, for at least thirty consecutive days, the
6 United States published Notice of the Forfeiture Action on the official internet government
7 forfeiture site www.forfeiture.gov. A Declaration of Publication was filed on February 25,
8 2009.

9 5. In addition to the public notice on the official internet government forfeiture
10 site www.forfeiture.gov, actual notice or attempted notice was given to the following
11 individuals or entities:

- 12 a. Raed Mouri
- 13 b. George Bittar
- 14 c. Wanda Bittar
- 15 d. Charles Gerken
- 16 e. Phoenix Cash & Carry

17 6. Claimants Phoenix Cash & Carry, LLC; Raed “Roy” Mouri; George Bittar; and
18 Ideal Tobacco Wholesale, Inc. (“Claimants”), filed Verified Claims on February 17, 2009.
19 This case has been stayed by Court Order pending the resolution of the related criminal
20 case, United States v. Raed Mouri and George Bittar, 2:13-CR-00261-JAM. No other
21 parties have filed claims or answers in this matter, and the time in which any person or
22 entity may file a claim and answer has expired.

23 7. On April 14, 2009, a Stipulation and Order for Interlocutory Sale of Defendant
24 Tobacco Products was entered authorizing the Bureau of Alcohol, Tobacco, Firearms, and
25 Explosives to sell the defendant tobacco products identified in the caption above.

26 8. The Clerk of the Court entered a Clerk’s Certificate of Entry of Default
27 against Charles Gerken on May 29, 2009. The Clerk of the Court entered a Clerk’s
28 Certificate of Entry of Default against Wanda Bittar on December 16, 2013. Pursuant to
Local Rule 540, the United States requests that as part of this Final Judgment of
Forfeiture the Court enter a default judgment against the interests, if any, of Charles

1 Gerken and Wanda Bittar without further notice.

2 Based on the above findings, and the files and records of the Court, it is hereby
3 ORDERED AND ADJUDGED:

4 1. The Court adopts the Stipulation for Final Judgment of Forfeiture entered
5 into by and between the parties to this action.

6 2. That judgment is hereby entered against Claimants Phoenix Cash & Carry,
7 LLC; Raed “Roy” Mouri; George Bittar; and Ideal Tobacco Wholesale, Inc., and all other
8 potential claimants who have not filed claims in this action.

9 3. Upon entry of this Final Judgment of Forfeiture, all right, title, and interest
10 of Claimants Phoenix Cash & Carry, LLC; Raed “Roy” Mouri; George Bittar; and Ideal
11 Tobacco Wholesale, Inc. in the following defendant properties, together with any interest
12 that may have accrued, shall be forfeited to the United States pursuant to 18 U.S.C. §§
13 981(a)(1)(C) and 2344(c), to be disposed of according to law:

- 14 a. Approximately \$4,023.00 in U.S. Currency,
- 15 b. Approximately \$1,280.00 in U.S. Currency,
- 16 c. Approximately \$6,268.00 in U.S. Currency,
- 17 d. Approximately \$5,510.00 in U.S. Currency, and
- 18 e. Approximately \$14,206.37 in net proceeds from the sale of
19 the approximately 169 Boxes of Smokeless Tobacco.

20 4. The United States and its servants, agents, and employees and all other
21 public entities, their servants, agents, and employees, are released from any and all
22 liability arising out of or in any way connected with the seizure, arrest, sale, or forfeiture
23 of the defendant properties. This is a full and final release applying to all unknown and
24 unanticipated injuries, and/or damages arising out of said seizure, arrest, sale, or
25 forfeiture, as well as to those now known or disclosed. The parties waived the provisions
26 of California Civil Code § 1542.

27 5. Claimants waived any and all claim or right to interest that may have accrued
28 on the defendant funds being forfeited to the United States.

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

6. All parties are to bear their own costs and attorney's fees.

7. The U.S. District Court for the Eastern District of California, Hon. John A. Mendez, District Judge, shall retain jurisdiction to enforce the terms of this Final Judgment of Forfeiture.

SO ORDERED THIS 19th day of December, 2013.

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