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 7

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

10

11 UNITED STATES OF AMERICA,	)	2:09-cv-02087-WBS-EFB
	)	
12 Plaintiff,	)	<b>JOINT STATUS REPORT;</b>
	)	<b>STIPULATION FOR STAY OF</b>
13 v.	)	<b>FURTHER PROCEEDINGS; AND</b>
	)	<b>ORDER [PROPOSED]</b>
14 APPROXIMATELY \$16,923.70 IN	)	
U.S. CURRENCY,	)	
	)	
15 Defendant.	)	
16	)	

17 Plaintiff United States of America ("Plaintiff") and  
 18 claimants Eric Engstrom ("Engstrom") and Mona Colomb  
 19 ("Claimants"), by and through their respective counsel, hereby  
 20 submit the following Joint Status Report in accordance with the  
 21 Court's Order Requiring Joint Status Report in this matter as  
 22 filed in this action on November 25, 2009.

23 **(a) Summary of the Claims**

24 On July 28, 2009, Plaintiff filed a verified complaint in  
 25 this action ("Complaint"). The defendant in this action is  
 26 described as Approximately \$16,923.70 in U.S. Currency  
 27 ("defendant currency"). The defendant currency was seized on or  
 28 about February 20, 2009, at 14964 Lake Lane, Nevada City,

1 California, and is in the custody of the United States Marshals  
2 Service, Eastern District of California. As set forth in the  
3 Complaint, the defendant currency constitutes money or other  
4 things of value furnished or intended to be furnished by any  
5 person in exchange for a controlled substance or listed chemical  
6 in violation of 21 U.S.C. § 841 et seq., proceeds traceable to  
7 such an exchange, and/or moneys used or intended to be used to  
8 facilitate any violation of 21 U.S.C. § 841 et seq.

9 On November 12, 2009, Claimants filed a Claim to the  
10 defendant property. On November 23, 2009, they filed an Answer  
11 to the Complaint.

12 **(b) Status of Service on All Defendants and Cross Defendants**

13 All known potential claimants have been served with the  
14 Complaint, Notice of Complaint, Application and Order for  
15 Publication, and Court Notices. Accordingly, service is  
16 complete.

17 **(c) Possible Joinder of Additional Parties**

18 None.

19 **(d) Contemplated Amendments to the Pleadings**

20 None.

21 **(e) Statutory Basis of Jurisdiction and Venue**

22 This Court has jurisdiction in this matter pursuant to 28  
23 U.S.C. § 1345 and 28 U.S.C. § 1355(a). Venue is proper in this  
24 district pursuant to 28 U.S.C. § 1355(b) and 28 U.S.C. § 1395.

25 **(f) Written Report Outlining Proposed Discovery Plan under  
26 Federal Rule of Civil Procedure 26(f)**

27 As of the December 1, 2006, amendments to Rule 26 of the  
28 Federal Rules of Civil Procedure, civil forfeiture actions are

1 exempt from the initial disclosure requirements applicable to  
2 most other civil actions. See Fed. R. Civ. P. 26(a)(1)(E)(ii).

3 Rather than fully schedule this case at this time, the  
4 Parties jointly request a stay of further proceedings in this  
5 matter pending the state prosecution of Claimant Eric Engstrom in  
6 Superior Court of California for the County of Nevada, Case No.  
7 SF09-079. The stay is requested pursuant to 18 U.S.C.  
8 §§ 981(g)(1) and 981(g)(2) and 21 U.S.C. § 881(i), based on the  
9 following reasons:

10 The United States contends that the defendant currency  
11 constitutes money or other things of value furnished or intended  
12 to be furnished by any person in exchange for a controlled  
13 substance or listed chemical in violation of 21 U.S.C. § 841 et  
14 seq., proceeds traceable to such an exchange, and/or moneys used  
15 or intended to be used to facilitate any violation of 21 U.S.C.  
16 § 841 et seq. The United States intends to depose Engstrom about  
17 the claim he filed in this case; his involvement in and/or  
18 knowledge of drug-trafficking; the source of the funds seized;  
19 and other facts as alleged in the Complaint. If Engstrom as a  
20 claimant in this action invokes his Fifth Amendment rights, the  
21 United States will be deprived of its ability to explore the  
22 factual bases underlying Engstrom's claim in this action and to  
23 examine the assertions he has raised in the Answer he has filed  
24 herein.

25 Engstrom as a claimant in this action will, in turn, seek to  
26 depose law enforcement officers who participated in the seizure  
27 of the defendant currency on February 20, 2009, facts of which  
28 also form the basis of the pending criminal case against

1 Engstrom. Allowing the depositions of the officers would  
2 potentially and adversely affect the ability of the State of  
3 California to conduct its criminal prosecution against Eric  
4 Engstrom.

5 Accordingly, the Parties agree that proceeding with this  
6 action at this time has potential adverse effects on the  
7 prosecution of the related criminal cases and/or upon Engstrom's  
8 ability to prove his claim to the property and/or assert any  
9 defenses to forfeiture. For these reasons, the Parties jointly  
10 request that this matter be stayed pending the outcome of the  
11 state criminal prosecution, at which time the Parties will advise  
12 the Court whether a further stay is necessary.

13 **(g) Proposed Discovery Cut-Off Date**

14 In light of the requested stay, the parties ask that the  
15 case not be scheduled at this time.

16 **(h) Proposed Date for All Motions to be Filed and Heard**

17 In light of the requested stay, the parties ask that the  
18 case not be scheduled at this time.

19 **(i) Proposed Modification of Standard Pretrial Proceedings**

20 In light of the requested stay, the parties ask that the  
21 case not be scheduled at this time.

22 **(j) Estimated Length of Trial**

23 Not likely to exceed three (3) days.

24 **(k) Related to Any Other Case**

25 State of California v. Eric Engstrom, Case No. SF09-079,  
26 Superior Court of California for the County of Nevada.

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1 (1) Matters Under Local Rule 16-240 Adding to Just and  
2 Expeditious Disposition of Matter

3 None.

4 (m) Identification by Nongovernmental Corporate Party of Parent  
5 and Subsidiary Corporations

6 None.

7 Dated: December 21, 2009

BENJAMIN B. WAGNER  
United States Attorney

9 /s/ Saralyn M. Ang-Olson  
10 Saralyn M. Ang-Olson  
Special Assistant U.S. Attorney

11 Attorney for Plaintiff

12  
13 Dated: December 21, 2009

/s/ Stephen A. Munkelt  
14 Stephen A. Munkelt  
Attorney for Claimants  
Eric Engstrom and Mona Colomb

15 (Original signature on file)

16  
17 **ORDER**

18 For the reasons set forth above, this action is stayed  
19 pursuant to 18 U.S.C. § 981(g)(1), 18 U.S.C. § 981(g)(2), and 21  
20 U.S.C. § 881(i) until the conclusion of the criminal case, at  
21 which time the Parties will advise the Court whether a further  
22 stay is necessary. **The Scheduling Conference is continued to**  
23 **July 26, 2010 at 2:00 p.m.**

24 **IT IS SO ORDERED.**

25 DATED: December 21, 2009

26   
27 WILLIAM B. SHUBB  
28 UNITED STATES DISTRICT JUDGE