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

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 as filed in this action on December 22, 2009.

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

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

1 Joint Status Report; Stipulation for  
 Further Stay; Order [Proposed]

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

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

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

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

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

17 None.

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

19 None.

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

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

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

26 As of the December 1, 2006, amendments to Rule 26 of the  
27 Federal Rules of Civil Procedure, civil forfeiture actions are  
28 exempt from the initial disclosure requirements applicable to

1 most other civil actions. See Fed. R. Civ. P. 26(a)(1)(E)(ii).

2 Rather than fully schedule this case at this time, the  
3 Parties jointly request a further stay of proceedings in this  
4 matter for an additional three months pending the outcome of the  
5 appeal in the state prosecution of Claimant Eric Engstrom in  
6 Superior Court of California for the County of Nevada, Case No.  
7 SF09-079. A further 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  
17 about 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 further stayed pending the outcome of  
11 the state criminal prosecution, at which time the Parties will  
12 advise the Court whether a further stay is necessary.

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

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

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

20 In light of the requested further stay, the parties ask that  
21 the 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.

27 **(l) Matters Under Local Rule 16-240 Adding to Just and  
28 Expeditious Disposition of Matter**

1 None.

2 (m) Identification by Nongovernmental Corporate Party of Parent  
3 and Subsidiary Corporations

4 None.

5 Dated: 1/7/11

BENJAMIN B. WAGNER  
United States Attorney

7 /s/ Kelli L. Taylor  
8 KELLI L. TAYLOR  
Assistant U.S. Attorney

11 Dated: 1/7/11


/s/ Stephen A. Munkelt  
Stephen A. Munkelt  
Attorney for Claimants  
Eric Engstrom and Mona Colomb  
(As authorized by email 1/7/11)

15 **ORDER**

16 For the reasons set forth above, this matter is stayed  
17 pursuant to 18 U.S.C. §§ 981(g)(1), 981(g)(2), and 21 U.S.C. §  
18 881(i) until April 7, 2011. On or before April 18, 2011, the  
19 parties shall file a Joint Status Report advising the court  
20 whether a further stay is necessary . The Scheduling Conference  
21 is continued to May 2, 2011 at 2:00 p.m.

22 **IT IS SO ORDERED.**

24 Dated: January 10, 2011

26 

27 WILLIAM B. SHUBB  
28 UNITED STATES DISTRICT JUDGE