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5 United States of America

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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-03063-LKK-GGH
12 Plaintiff,	)	
13	)	
14 v.	)	
15 REAL PROPERTY LOCATED IN	)	FINAL JUDGMENT OF
16 NEVADA COUNTY, CALIFORNIA,	)	FORFEITURE
17 APN: 61-160-05, INCLUDING ALL	)	
18 APPURTENANCES AND IMPROVEMENTS	)	
THERE TO,	)	
19 Defendant.	)	

19 Pursuant to the Stipulation for Final Judgment of Forfeiture filed herein, the  
 20 Court finds:

21 1. This is a civil forfeiture action against the following real property  
 22 located in Nevada County, California, APN: 61-160-05, including all appurtenances  
 23 and improvements thereto (hereafter "defendant real property") and more fully  
 24 described as:

25 THE LAND REFERRED TO HEREIN BELOW IS SITUATED AN  
 26 UNINCORPORATED AREA, COUNTY OF NEVADA, STATE OF CALIFORNIA,  
 AND IS DESCRIBED AS FOLLOWS:

27 Lot 7 Block 3, as shown on the Official Map of Townsite of Cherokee  
 28 filed in the Office of the County Recorder of the County of Nevada,  
 State of California on December 31, 1874.

APN: 61-160-05

1           2.     A Verified Complaint for Forfeiture *In Rem* ("Complaint") was filed on  
2 November 3, 2009, alleging that said defendant real property is subject to forfeiture  
3 to the United States of America pursuant to 18 U.S.C. § 981(a)(1)(A), 31 U.S.C. §  
4 5317(c)(2) and 21 U.S.C. § 881(a)(6).

5           3.     On November 13, 2009, the defendant real property was posted with a  
6 copy of the Complaint and Notice of Complaint.

7           4.     Beginning on January 23, 2010, for at least 30 consecutive days, the  
8 United States published Notice of the Forfeiture Action on the official internet  
9 government forfeiture site [www.forfeiture.gov](http://www.forfeiture.gov). A Declaration of Publication was  
10 filed on February 22, 2010.

11          5.     In addition to the public notice on the official internet government  
12 forfeiture site [www.forfeiture.gov](http://www.forfeiture.gov), actual notice or attempted notice was given to  
13 the following individuals:

14           a.     Charles M. Hilkey, Jr.

15          6.     Claimant Charles M. Hilkey, Jr. filed a claim alleging an interest in  
16 the defendant real property on January 29, 2010. No other parties have filed claims  
17 or answers in this matter, and the time for which any person or entity may file a  
18 claim and answer has expired.

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

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

23          2.     That judgment is hereby entered against claimant Charles M. Hilkey,  
24 Jr. and all other potential claimants who have not filed claims in this action.

25          3.     All right, title and interest of Charles M. Hilkey, Jr. in the defendant  
26 real property shall be forfeited to the United States pursuant to 18 U.S.C. §  
27 981(a)(1)(A), 31 U.S.C. § 5317(c)(2) and 21 U.S.C. § 881(a)(6).

28          4.     The Internal Revenue Service (or a designee) shall list the defendant  
real properties listed above in paragraph 8(a) for sale. The Internal Revenue

1 Service shall have sole authority to select the means of sale, including sale by  
2 internet or through a licensed real estate broker, and shall have sole authority over  
3 the marketing and sale of the defendant real properties.

4 5. The Internal Revenue Service shall have the defendant real property  
5 appraised by a licensed appraiser of its choosing. The Internal Revenue Service and  
6 the appraiser may have access to the defendant real property upon 24 hours  
7 telephonic notice.

8 6. If necessary, the Internal Revenue Service, and any real estate broker  
9 employed by the Internal Revenue Service, shall have the right to put a "lock box"  
10 on the property to facilitate the marketing and sale of the property.

11 7. The following costs, expenses and distributions shall be paid in escrow  
12 from the gross sales price in the following priority and to the extent funds are  
13 available:

- 14 (a) The costs incurred by the Internal Revenue Service to the date  
15 of close of escrow, including the cost of posting, service,  
16 advertising, and maintenance.
- 17 (b) Any unpaid real property taxes, which shall be prorated  
18 as of the date of the entry of the Final Judgment of  
19 Forfeiture.
- 20 (c) A real estate commission not to exceed the Internal Revenue  
21 Service contractual brokerage fee.
- 22 (d) The seller shall pay any county transfer taxes.
- 23 (e) To the United States of America: the net proceeds from the sale  
24 of the real properties. All right, title, and interest in said funds  
25 shall be substituted for the defendant real properties and  
26 forfeited to the United States pursuant to 18 U.S.C. §  
27 981(a)(1)(A), 31 U.S.C. § 5317(c)(2) and 21 U.S.C. § 881(a)(6), to  
28 be disposed of according to law.

8. Any liens or encumbrances against the defendant real property that

1 appear on record subsequent to the recording of plaintiff's *lis pendens* on November  
2 10, 2009, and prior to the close of escrow may be paid out of escrow. The United  
3 States may pay any such lien or encumbrance at its sole discretion.

4 9. The costs of a lender's policy of title insurance (ALTA policy) shall be  
5 paid for by the buyer.

6 10. All loan fees, "points" and other costs of obtaining financing shall be  
7 paid for by the buyer of the defendant properties.

8 11. Each party shall execute all documents necessary to close escrow, if  
9 such signatures are required by the title insurer.

10 12. The United States and its servants, agents, and employees and all  
11 other public entities, their servants, agents, and employees, are released from any  
12 and all liability arising out of or in any way connected with the filing of the  
13 Complaint and the posting of the defendant real property with the Complaint and  
14 Notice of Complaint. This is a full and final release applying to all unknown and  
15 unanticipated injuries, and/or damages arising out of the filing of the Complaint  
16 and the posting of the defendant real property with the Complaint and Notice of  
17 Complaint, as well as to those now known or disclosed. Claimant waived the  
18 provisions of California Civil Code § 1542.

19 13. Claimant Charles M. Hilkey, Jr. represents that he will not take any  
20 action, or cause any other person to take any action, to damage or modify the  
21 defendant real properties from their present condition or other action that may  
22 result in a reduction in value of the defendant real property.

23 14. Claimant Charles M. Hilkey, Jr. shall remove all personal possessions,  
24 and the personal possessions of any former occupant, and leave the property clean  
25 and in the same state of repair as the property was on the date it were posted. Any  
26 and all of claimants' personal possessions, and the personal possessions of any  
27 former occupant, not removed within 72 hours after the entry of a Final Judgment  
28 of Forfeiture will be disposed of by the United States without further notice.


15. This settlement is contingent upon the simultaneous execution of the

1 settlement agreements in the following related cases: *U.S. v. Real Properties in*  
2 *Nevada County*, 2:09-CV-03062 LKK/GGH; *U.S. v. Real Property in Nevada County*,  
3 2:09-CV-03063 LKK/GGH; *U.S. v. Real Property at 24271 Hoyt Crossing Road*, 2:09-  
4 CV-03085 LKK/GGH; and *U.S. v. Approximately \$90,830.00 in U.S. Currency*, 2:10-  
5 CV-00390 LKK/EFB. Failure to execute the settlement agreement in even a single  
6 action will void all settlement agreements.

7 16. All parties will bear their own costs and attorneys' fees, if any.

8 17. The U.S. District Court for the Eastern District of California, Hon.  
9 Lawrence K. Karlton, District Judge, shall retain jurisdiction to enforce the terms of  
10 the Final Judgment of Forfeiture.

11 SO ORDERED THIS 8th day of March, 2013.

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16 LAWRENCE K. KARLTON  
17 SENIOR JUDGE  
18 UNITED STATES DISTRICT COURT  
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