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

10
 11 UNITED STATES OF AMERICA,

2:09 CV 03063-LKK-GGH

12 Plaintiff,

13 v.

14 REAL PROPERTY LOCATED IN
 NEVADA COUNTY, CALIFORNIA,
 15 APN: 61-160-05, INCLUDING ALL
 APPURTENANCES AND
 16 IMPROVEMENTS THERETO,

AMENDED FINAL JUDGMENT
 OF FORFEITURE

17 Defendant.

18 The United States hereby requests this *Amended* Final Judgment of Forfeiture
 19 (“AFJF”) to amend the Final Judgment of Forfeiture (“FJF”) entered on March 8, 2013,
 20 because the order did not include the recorded owner, Sparky’s Cherokee Estates, LLC,
 21 of the real properties. Sparky’s Cherokee Estates, LLC is owned by Charles M. Hilkey,
 22 Jr. Other than the recorded owner changes, which are explained in a footnote below,
 23 no other changes have been made to the Court’s original Final Judgment of Forfeiture.

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

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

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

7 APN: 61-160-05

8 2. A Verified Complaint for Forfeiture *In Rem* ("Complaint") was filed on
9 November 3, 2009, alleging that said defendant real properties are subject to forfeiture
10 to the United States of America pursuant to 18 U.S.C. § 981(a)(1)(A), 31 U.S.C. §
11 5317(c)(2) and 21 U.S.C. § 881(a)(6). The recorded owner of the real property is
12 Sparky's Cherokee Estates, LLC. Sparky's Cherokee Estates, LLC is owned by Charles
13 M. Hilkey, Jr.¹

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

16 4. Beginning on January 23, 2010, for at least 30 consecutive days, the
17 United States published Notice of the Forfeiture Action on the official internet
18 government forfeiture site www.forfeiture.gov. A Declaration of Publication was filed
19 on February 22, 2010.

20 5. In addition to the public notice on the official internet government
21 forfeiture site www.forfeiture.gov, actual notice or attempted notice was given to the
22 following individual(s): Charles M. Hilkey, Jr.

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

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

¹ The Final Judgment of Forfeiture entered on March 8, 2013 did not include the titled interest of Sparky's Cherokee Estates, LLC, a company solely owned by Charles M. Hilkey Jr. in the defendant property.

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

3 2. That judgment is hereby entered against claimant Charles M. Hilkey, Jr.,
4 as sole owner of Sparky's Cherokee Estates, LLC, and all other potential claimants who
5 have not filed claims in this action.

6 3. All right, title and interest of Charles M. Hilkey, Jr. as sole owner of
7 Sparky's Cherokee Estates, LLC in the defendant real property shall be forfeited to the
8 United States pursuant to 18 U.S.C. § 981(a)(1)(A), 31 U.S.C. § 5317(c)(2) and 21
9 U.S.C. § 881(a)(6).

10 4. The Internal Revenue Service (or a designee) shall list the defendant real
11 property for sale. The Internal Revenue Service shall have sole authority to select the
12 means of sale, including sale by internet or through a licensed real estate broker, and
13 shall have sole authority over the marketing and sale of the defendant real property.

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

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

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

24 (a) The costs incurred by the Internal Revenue Service to the date of
25 close of escrow, including the cost of posting, service, advertising,
26 and maintenance.

27 (b) Any unpaid real property taxes, which shall be prorated as of the
28 date of the entry of the *Amended* Final Judgment of Forfeiture.

- 1 (c) A real estate commission not to exceed the Internal Revenue
- 2 Service contractual brokerage fee.
- 3 (d) The seller shall pay any county transfer taxes.
- 4 (e) To the United States of America: the net proceeds from the sale of
- 5 the real property. All right, title, and interest in said funds shall be
- 6 substituted for the defendant real property and forfeited to the
- 7 United States pursuant to 18 U.S.C. § 981(a)(1)(A), 31 U.S.C. §
- 8 5317(c)(2) and 21 U.S.C. § 881(a)(6), to be disposed of according to
- 9 law.

10 8. Any liens or encumbrances against the defendant real property that
11 appear on record subsequent to the recording of plaintiff's *lis pendens* on November 10,
12 2009, and prior to the close of escrow may be paid out of escrow. The United States
13 may pay any such lien or encumbrance at its sole discretion.

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

16 10. All loan fees, "points" and other costs of obtaining financing shall be
17 paid for by the buyer of the defendant property.

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

20 12. The United States and its servants, agents, and employees and all
21 other public entities, their servants, agents, and employees, are released from any and
22 all liability arising out of or in any way connected with the filing of the Complaint and
23 the posting of the defendant real property with the Complaint and Notice of Complaint.
24 This is a full and final release applying to all unknown and unanticipated injuries,
25 and/or damages arising out of the filing of the Complaint and the posting of the
26 defendant real property with the Complaint and Notice of Complaint, as well as to
27 those now known or disclosed. Claimant waived the provisions of California Civil Code
28 § 1542.

1 13. Claimant Charles M. Hilkey, Jr. as sole owner of Sparky's Cherokee
2 Estates, LLC, represents that he will not take any action, or cause any other person to
3 take any action, to damage or modify the defendant real property from their present
4 condition or other action that may result in a reduction in value of the defendant real
5 property.


6 14. Claimant Charles M. Hilkey, Jr. shall remove all personal possessions,
7 and the personal possessions of any former occupant, and leave the property clean and
8 in the same state of repair as the property was on the date it was posted. Any and all
9 of claimant's personal possessions, and the personal possessions of any former
10 occupant, not removed within 72 hours after the entry of an *Amended* Final Judgment
11 of Forfeiture will be disposed of by the United States without further notice.

12 15. This settlement is contingent upon the simultaneous execution of the
13 settlement agreements in the following related cases: U.S. v. Real Properties in Nevada
14 County, 2:09-CV-03062 LKK/GGH; U.S. v. Real Property in Nevada County, 2:09-CV-
15 03063 LKK/GGH; U.S. v. Real Property at 24271 Hoyt Crossing Road, 2:09-CV-03085
16 LKK/GGH; and U.S. v. Approximately \$90,830.00 in U.S. Currency, 2:10-CV-00390
17 LKK/EFB. Failure to execute the settlement agreement in even a single action will
18 void all settlement agreements.

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

20 17. The U.S. District Court for the Eastern District of California, Hon.
21 Lawrence K. Karlton, District Judge, shall retain jurisdiction to enforce the terms of
22 the Amended Final Judgment of Forfeiture.

23 SO ORDERED THIS 2nd day of December, 2013.

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26 
27 LAWRENCE K. KARLTON
28 SENIOR JUDGE
UNITED STATES DISTRICT COURT