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

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11 UNITED STATES OF AMERICA,) 2:10-cv-00770-JAM-KJM
12 Plaintiff,) STIPULATION TO STAY
13 v.) FURTHER PROCEEDINGS
14 REAL PROPERTY LOCATED AT 5796) AND ORDER
15 ZENIA LAKE MOUNTAIN ROAD,) DATE: N/A
16 KETTENPOM, CALIFORNIA, TRINITY) TIME: N/A
17 COUNTY, APN: 022-080-3800,) COURTROOM: N/A
18 INCLUDING ALL APPURTENANCES)
AND IMPROVEMENTS THERETO,)
Defendant.)
19 _____

20 Plaintiff United States of America, and Claimant Todd Hudy,
21 "claimant"), by and through their respective counsel, hereby
22 stipulate that a stay is necessary in the above-entitled actions,
23 and request that the Court enter an order staying all further
24 proceedings until January 6, 2011, because criminal charges are
25 pending against claimant in Trinity County. Those charges
26 (possession of marijuana for sale, cultivation of marijuana, and
27 an enhancement for a firearm) arise out of the same conduct that
28 led to the filing of the instant civil forfeiture action against
the defendant real property.

1 1. The stay is requested pursuant to 18 U.S.C.
2 §§ 981(g)(1) and 981(g)(2). The plaintiff contends that claimant
3 was growing marijuana on the defendant property. Claimant denies
4 these allegations.

5 2. The Trinity County District Attorney filed drug charges
6 against claimant and his brother, James, on April 23, 2010.
7 Claimant has not been arraigned on these charges, and no dates
8 have been set.

9 3. Plaintiff intends to depose claimant and his brother
10 regarding their involvement in, or knowledge of, the cultivation
11 of marijuana on the defendant property. Plaintiff also intends
12 to question claimant about the defenses he raised in his Answer
13 to the Complaint for Forfeiture In Rem. If discovery proceeds at
14 this time, claimant will be placed in the difficult position of
15 either invoking his Fifth Amendment rights against self-
16 incrimination and losing the ability to pursue his claim to the
17 defendant property, or waiving his Fifth Amendment rights and
18 submitting to a deposition and potentially incriminating himself.
19 If he invokes his Fifth Amendment rights, the plaintiff will be
20 deprived of the ability to explore the factual basis for the
21 claim he filed with this court and the affirmative defenses in
22 his Answer.

23 4. In addition, claimant intends to depose, among others,
24 the state and federal agents involved with this investigation and
25 the execution of a state search warrant at the defendant
26 property. Allowing depositions of the law enforcement officers
27 at this time would adversely affect the ability of the Trinity
28 County officials to prosecute the underlying criminal conduct.

5. The parties recognize that proceeding with these actions at this time has potential adverse effects on the investigation of the underlying criminal conduct and/or upon the claimant's ability to prove his claim to the property and to assert any defenses to forfeiture. For these reasons, the parties jointly request that these matters be stayed until January 6, 2011. At that time the parties will advise the court of the status of the Trinity County prosecution and will advise the court whether a further stay is necessary.

Dated: June 29, 2010

BENJAMIN B. WAGNER
United States Attorney

By /s/ Kristin S. Door
KRISTIN S. DOOR
Assistant U.S. Attorney
Attorneys for Plaintiff
United States of America

Dated: June 29, 2010

ROTHSCHILD WISHEK & SANDS LLP

By /s/ Kresta Nora Daly
(As authorized on 6/29/10)
KRESTA NORA DALY
Attorneys for claimant
Todd Hudy

ORDER

For the reasons set forth above, these matters is stayed pursuant to 18 U.S.C. §§ 981(g)(1) and 981(g)(2) until January 6, 2011. On or before January 6, 2011, the parties will advise the

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1 Court whether a further stay is necessary.

2 IT IS SO ORDERED.

3 Dated: June 30, 2010

4 /s/ John A. Mendez

JOHN A. MENDEZ

5 UNITED STATES DISTRICT JUDGE

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