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

11 UNITED STATES OF AMERICA,)	2:10-CV-01894 WBS-JFM
)	
12 Plaintiff,)	STIPULATION FOR STAY OF
)	FURTHER PROCEEDINGS AND
13 v.)	ORDER [PROPOSED]
)	
14 REAL PROPERTY LOCATED AT 3110)	
MORGAN HILL ROAD, HAYFORK,)	
15 CALIFORNIA, TRINITY COUNTY,)	
APN: 017-430-25, INCLUDING ALL)	
16 APPURTENANCES AND IMPROVEMENTS)	DATE: N/A
THERE TO,)	TIME: N/A
)	COURTROOM: #5, 14 th Floor
17 Defendant.)	
)	

19
 20 The United States and claimant Jaime R. Serrano submit the
 21 following stipulation and request that the Court enter an order
 22 staying all further proceedings in this civil forfeiture action
 23 until the proceedings in the related criminal case, People v.
 24 Jaime R. Serrano, et al., now pending in Trinity County Superior
 25 Court, have concluded. The parties request this stay for the
 26 following reasons:

27 1. The parties request this stay pursuant to 18 U.S.C.
 28 §§ 981(g)(1) and 981(g)(2). The United States contends that the

1 defendant real property was used to facilitate the cultivation of
2 marijuana. During the execution of a state search warrant on
3 April 14, 2010, law enforcement officers found approximately
4 2,203 marijuana plants being grown in a sophisticated indoor
5 operation. The details of the underlying criminal investigation
6 are set forth in the Verified Complaint for Forfeiture In Rem
7 (Complaint) filed on July 19, 2010. Claimant Jaime R. Serrano,
8 the owner of the defendant property, denies these allegations.

9 2. Trueman E. Vroman also has an interest in the defendant
10 property, and has filed a Claim and Answer to the Complaint.
11 Vroman loaned Serrano funds to construct the residence and is
12 owed approximately \$190,000, which is secured by a deed of trust
13 recorded against the defendant property on October 26, 2007.¹ On
14 June 28, 2011, this Court approved a Stipulation for Expedited
15 Settlement entered into by the United States and Vroman. The
16 Stipulation provided that, upon entry of a Final Judgment of
17 Forfeiture in favor of the United States, the United States would
18 sell the defendant real property in a commercially reasonable
19 manner and for fair market value. The Stipulation further
20 profiled the priority of payment to the involved
21 parties/entities, i.e., U.S. Marshals Service fees, property
22 taxes, broker costs, and Vroman's promissory note. The
23 Stipulation also excused and relieved Vroman from further
24 participation in this action.

25
26 ¹ Vroman denies the allegation in the complaint based on his
27 lack of knowledge of Serranos's activities, and claims he is an
28 innocent owner within the meaning of 18 U.S.C. § 983(d)(2)(A).
Based on the information currently available, the United States
agrees that Vroman is an innocent owner.

1 3. The United States intends to depose claimant Serrano
2 about the marijuana being grown on the defendant property; about
3 who constructed the grow rooms found within the home; and about
4 his involvement in drug trafficking. If discovery proceeds,
5 claimant Serrano would be placed in the difficult position of
6 either invoking his Fifth Amendment right against self-
7 incrimination and losing the ability to protect his alleged
8 interest in the defendant property, or waiving his Fifth
9 Amendment right and submitting to a deposition and potentially
10 incriminating himself in the pending criminal matter. If
11 claimant invokes his Fifth Amendment right, the United States
12 will be deprived of the ability to explore the factual basis for
13 the claim he filed in this action.

14 4. In addition, claimant Serrano intends to depose law
15 enforcement officers who were involved in underlying drug-
16 trafficking investigation, and the execution of the state search
17 warrant at the claimant's residence. Allowing depositions of
18 these officers would adversely affect the ability of the federal
19 government to properly prosecute the case.

20 5. Accordingly, the parties recognize that proceeding with
21 this action at this time has potential adverse affects on the
22 prosecution of the related-criminal case and/or upon claimant's
23 ability to prove his claims to the property and to contest the
24 government's allegations that the property is forfeitable.

25 6. For these reasons, the parties jointly request that
26 this matter be stayed until the related criminal case now pending
27 in state court has concluded. The parties presently understand
28 that the related criminal case against Serrano is set for trial

1 in late August 2011. Within 30 days after the conclusion of the
2 related criminal case Serrano will file his Answer to the
3 Complaint, and the parties will submit a joint status report
4 addressing the matters set forth in the July 19, 2010, Order
5 Requiring Joint Status Report.

6 7. While this case is stayed, claimant Serrano agrees to
7 keep current all payments due to Trueman E. Vroman under the
8 promissory note dated October 26, 2007, in the original principal
9 amount of \$225,000.00, and secured by the deed of trust recorded
10 in Trinity County, California, on October 26, 2007, encumbering
11 the defendant property.

12 8. In the event claimant Serrano defaults on his
13 obligations to Trueman E. Vroman, claimant Serrano agrees to join
14 any motion filed by Vroman and/or the United States for the
15 interlocutory sale of the defendant property. The term "default"
16 shall mean any default under the note and deed of trust
17 encumbering the defendant property and any other documents
18 executed by claimant Serrano in connection therewith. In the
19 alternative, if at the time of default the fair market value of
20 the defendant property is less than the amount owed to Vroman,
21 the United States may move to dismiss the pending forfeiture
22 action to permit Vroman to exercise his rights under the note and
23 deed of trust, including but not limited to foreclosure. The
24 decision whether to seek an interlocutory sale order, or to

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1 permit Vroman to foreclose, lies in the sole discretion of the
2 United States.

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4 Dated: July 8, 2011

BENJAMIN B. WAGNER
United States Attorney

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6 By /s/ Kevin Khasigian
KEVIN C. KHASIGIAN
Assistant U.S. Attorney

7
8 Dated: July 8, 2011


/s/ Stephen Sweigart
STEPHEN SWEIGART
Attorney for claimant
Jaime R. Serrano
(As authorized by email)

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11
12 **ORDER**

13 For the reasons set forth above, this matter is stayed pursuant
14 to 18 U.S.C. §§ 981(g)(1) and 981(g)(2) until the conclusion of
15 the related criminal case now pending in Trinity County Superior
16 Court. Within 30 days after the criminal case has concluded,
17 claimant Serrano will file his Answer to the Verified Complaint
18 for Forfeiture In Rem, and the parties will submit a joint status
19 report addressing the matters set forth in the July 19, 2010,
20 Order Requiring Joint Status Report. The Scheduling Conference
21 is continued to November 28, 2011 at 2:00 p.m. A joint status
22 report shall be filed no later November 14, 2011.

23 IT IS SO ORDERED.

24 Dated: July 11, 2011

25 
26 WILLIAM B. SHUBB
27 UNITED STATES DISTRICT JUDGE
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