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8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA
 10

11 UNITED STATES OF AMERICA,)	2:10-cv-02763 JAM-EFB
)	
12 Plaintiff,)	JOINT STATUS REPORT AND
)	STIPULATION FOR STAY OF
13 v.)	FURTHER PROCEEDINGS AND
)	ORDER
14 APPROXIMATELY \$28,580.00 IN U.S.)	
CURRENCY,)	
15)	DATE: N/A
16 APPROXIMATELY \$30,000.00 IN U.S.)	TIME: N/A
CURRENCY SEIZED FROM BANK OF AMERICA)	COURTROOM: #2, 15 th Fl.
SAFE DEPOSIT BOX 1481C, and)	
17)	
18 APPROXIMATELY \$16,039.00 IN U.S.)	
CURRENCY,)	
19 Defendants.)	
)	
20)	

21 Pursuant to this Court's Order Requiring Joint Status Report
 22 the plaintiff United States of America and claimants Sally Che,
 23 Tac Che, Sinh Ngo, and Pao Thao ("Claimants") submit the
 24 following report.

25 **A. NATURE OF THE CASE:**

26 Plaintiff contends that the defendant currency is the
 27 proceeds of marijuana trafficking and that it is forfeitable to
 28 the United States pursuant to 21 U.S.C. § 881(a)(6). Claimants

1 deny these allegations.

2 **B. PROGRESS IN THE SERVICE OF PROCESS:**

3 All known potential claimants to the defendant currency have
4 been served, and the time for filing claims or answers by
5 individuals receiving direct notice of this forfeiture action has
6 expired.

7 However, it is possible (albeit unlikely) that others may
8 file claims. Publication of the forfeiture on the government's
9 website is now complete, but under Rule G (5) (a) (ii) (B) of the
10 Supplemental Rules for Admiralty or Maritime Claims and Asset
11 Forfeiture Actions a person who did not receive direct notice of
12 the forfeiture (e.g. by certified mail or personal service), but
13 who sees the notice of forfeiture on the website, can file a
14 claim as late as 60 days after the first day of publication on
15 the government website. The first day of publication in this
16 case was October 20, 2010; accordingly, other potential claimants
17 have until December 20, 2010, to file claims.

18 **C. POSSIBLE JOINDER OF ADDITIONAL PARTIES:**

19 Plaintiff and claimants do not anticipate that there will be
20 any additional parties, but it is possible that a person who sees
21 the notice of forfeiture on the government website will file a
22 claim and answer and will become a party.

23 **D. ANY EXPECTED OR DESIRED AMENDMENT OF PLEADINGS:**

24 The parties do not contemplate amending the pleadings.

25 **E. JURISDICTION AND VENUE:**

26 Jurisdiction is based on 28 U.S.C. §§ 1345 and 1355(a).
27 Venue is based on 28 U.S.C. §§ 1355(b) and 1395, and 21 U.S.C. §
28 881(j).

1 **F. ANTICIPATED MOTIONS AND THE SCHEDULING THEREOF:**

2 Plaintiff intends to file a motion for summary judgment
3 after the completion of discovery.

4 Claimants do not have discovery yet from plaintiff and have
5 not decided which motions if any, might be appropriate.

6 The parties are requesting a stay of further proceedings
7 (see below) and therefore suggest that motions not be scheduled
8 at this time.

9 **G. ANTICIPATED DISCOVERY AND THE SCHEDULING THEREOF
10 INCLUDING:**

- 11 **(1) what changes, if any, should be made in the
12 timing, form, or requirement for disclosure
13 under Rule 26(a), including a statement as to
14 when disclosures under Rule 26(a)(1) were
15 made or will be made;**

16 As of the December 1, 2006, amendments to Rule 26 of the
17 Federal Rules of Civil Procedure, civil forfeiture actions are
18 now exempt from the initial disclosure requirements applicable to
19 most other civil actions. See Fed. R. Civ. P. 26(a)(1)(B)(ii).

20 In addition, the parties request that a stay of further
21 proceedings be entered at this time until all proceedings in the
22 related criminal case now pending in this Court against claimant
23 Tac Che (U.S. v. Tac Che et al., 2:10-cr-00168 JAM) have
24 concluded. The stay is requested pursuant to 18 U.S.C. §§
25 981(g)(1) and 981(g)(2), and 21 U.S.C. § 881(i). As explained
26 above, the plaintiff contends that the claimants were involved in
27 drug trafficking and that the seized funds are the proceeds of
28 that trafficking.

 If discovery proceeds at this time, claimants will be placed
in the difficult position of either invoking their Fifth

1 Amendment rights against self-incrimination and losing the
2 ability to pursue their claims to the defendant property, or
3 waiving their Fifth Amendment right and submitting to a
4 deposition and potentially incriminating themselves. If they
5 invoke their Fifth Amendment rights, the plaintiff will be
6 deprived of the ability to explore the factual basis for the
7 claims they filed with this court.

8 In addition, claimants intend to depose, among others, the
9 agents involved in this investigation. Allowing depositions of
10 the law enforcement officers at this time would adversely affect
11 the ability of federal authorities to prosecute the pending
12 criminal case.

13 The parties recognize that proceeding with this action at
14 this time has potential adverse affects on the prosecution of the
15 pending criminal case, and/or upon claimants' ability to prove
16 their claim to the property and assert any defenses to
17 forfeiture. For these reasons, the parties jointly request that
18 this matter be stayed until all proceedings in the related
19 criminal case are over. At that time the parties will advise
20 the court whether a further stay is necessary.

21 **(2) the subjects on which discovery may be needed;**
22 **when discovery should be completed; and whether**
23 **discovery should be conducted in phases or be**
24 **limited to or focused upon particular issues;**

25 As explained above the parties request a stay of further
26 proceedings.

27 **(3) what changes, if any, should be made in the**
28 **limitations on discovery imposed under the**
Civil Rules and what other limitations, if
any, should be imposed;

1 The parties do not request any changes in the discovery
2 limitations imposed by Fed. R. Civ. P. 26(b)(2), 30, or 33.

3 **(4) the timing of the disclosure of expert**
4 **witnesses and information required by Rule**
5 **26(a)(2);**

6 As explained above the parties request a stay of further
7 proceedings, including expert disclosure.

8 **H. FUTURE PROCEEDINGS, INCLUDING SETTING APPROPRIATE**
9 **CUT-OFF DATES FOR DISCOVERY, LAW AND MOTION, AND THE**
10 **SCHEDULING OF PRETRIAL AND TRIAL:**

EVENT	DATE
Plaintiff to disclose experts	To be scheduled when stay lifted
Claimants to disclose experts	To be scheduled when stay lifted
Plaintiff to disclose rebuttal experts	To be scheduled when stay lifted
Discovery cutoff	To be scheduled when stay lifted
Last day to file dispositive motions	To be scheduled when stay lifted
Hearing on motions	To be scheduled when stay lifted
Final pretrial conference	To be scheduled when stay lifted
Jury trial	To be scheduled when stay lifted

26 **I. APPROPRIATENESS OF SPECIAL PROCEDURES:**

27 None.

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1 Within 30 days after all proceedings in U.S. District Court in
2 U.S. v. Tac Che, 2:10Cr00168 JAM, have concluded, the parties
3 will advise the court whether a further stay is necessary.
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5 IT IS SO ORDERED.

6 Dated: 12/16/2010

7 /s/ John A. Mendez
8 JOHN A. MENDEZ
9 UNITED STATES DISTRICT JUDGE
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