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

10
 11 UNITED STATES OF AMERICA,
 12 Plaintiff,
 13 v.

2:12-CV-00477-JAM-DAD
 FINAL JUDGMENT OF
 FORFEITURE

14 VACANT LAND LOCATED IN FOREST
 RANCH, CALIFORNIA, BUTTE COUNTY,
 15 APN: 063-010-067-000, INCLUDING ALL
 APPURTENANCES AND
 16 IMPROVEMENTS THERETO,
 17 VACANT LAND LOCATED ON DOE MILL
 ROAD, FOREST RANCH, CALIFORNIA,
 18 BUTTE COUNTY, APN: 063-010-061-000,
 INCLUDING ALL APPURTENANCES
 19 AND IMPROVEMENTS THERETO, AND
 20 VACANT LAND LOCATED ON DOE MILL
 ROAD, FOREST RANCH, CALIFORNIA,
 21 BUTTE COUNTY, APN: 063-300-144-000,
 INCLUDING ALL APPURTENANCES
 22 AND IMPROVEMENTS THERETO,
 23 Defendants.

24 Pursuant to the Stipulations for Final Judgment of Forfeiture filed herein, the
 25 Court finds:

- 26 1. This is a civil forfeiture action against the following real properties,
 27 (collectively referred to as the “defendant properties”):
 28

1 (a) Vacant land located in Forest Ranch, California, Butte
2 County, APN: 063-010-067-000, including all appurtenances and
improvements thereto, and more fully described in Exhibit A
attached hereto and incorporated herein by reference;

3 (b) Vacant land located on Doe Mill Road, Forest Ranch,
4 California, Butte County, APN: 063-010-061-000, including all
appurtenances and improvements thereto, and more fully
5 described in Exhibit B attached hereto and incorporated herein
by reference; and

6 (c) Vacant land located on Doe Mill Road, Forest Ranch,
7 California, Butte County, APN: 063-300-144-000, including all
appurtenances and improvements thereto, and more fully
8 described in Exhibit C attached hereto and incorporated herein
by reference.

9 2. A Verified Complaint for Forfeiture *In Rem* ("Complaint") was filed on
10 February 23, 2012, alleging that said defendant properties are subject to forfeiture to the
11 United States pursuant to 21 U.S.C. § 881(a)(7).

12 3. On April 9 and 16, 2012, the defendant properties were posted with a copy of
13 the Complaint and Notice of Complaint.

14 4. Beginning on March 29, 2012, for at least 30 consecutive days, the United
15 States published Notice of the Forfeiture Action on the official internet government
16 forfeiture site www.forfeiture.gov. A Declaration of Publication was filed on May 17, 2012.

17 5. In addition to the public notice on the official internet government forfeiture
18 site www.forfeiture.gov, actual notice or attempted notice was given to the following
19 individuals or entities:

- 20 a. Ryan C. Cheal, Trustee of the Creekside Land Trust
- 21 b. Robb Cheal
- 22 c. Frances L. Toburen aka Frances L. Rothwell
- d. Butte County Tax Collector
- 23 e. Roth Investments

24 6. On March 28, 2012, Frances Toburen, aka Frances L. Rothwell, filed a claim
25 alleging an interest as a tenant in common to the Vacant land located in Forest Ranch,
California, APN: 063-010-067-000, and an answer to the Complaint on April 11, 2012. On
26 April 4, 2012, Robb Cheal filed a claim alleging an interest in the defendant properties, and
27 answers to the Complaint on April 20, 2012 and May 3, 2012. On April 19, 2012, C. Linda
28 Barnes, Butte County Treasurer-Tax Collector filed a claim alleging that property taxes

1 were owed on two of the defendant properties (APN's: 063-010-061-000 and 063-300-144-
2 000), and filed an answer to the Complaint on that same date. No other parties have filed
3 claims or answers in this matter, and the time for which any person or entity may file a
4 claim and answer has expired.

5 7. The Clerk of the Court entered a Clerk's Certificate of Entry of Default
6 against Ryan Cheal on August 24, 2012. (ECF No. 28). Pursuant to Local Rule 540, the
7 United States thus requests that as part of this Final Judgment of Forfeiture the Court
8 enter a default judgment against the interest, if any, of Ryan Cheal, Trustee of the
9 Creekside Land Trust, without further notice.

10 8. On December 20, 2013, an Order Confirming Sale of Real Property was filed
11 in the Butte County Superior Court in *Frances Toburen v. Ryan C. Cheal, Trustee of the*
12 *Creekside Land Trust, et al.*, Case No.: 155534, regarding Frances Toburen's half interest
13 in the Vacant land located in Forest Ranch, California, APN: 063-010-067-000. Frances
14 Toburen sold her undivided half interest in the defendant property identified as APN: 063-
15 010-067-000 to Rick and Patti Stemple.

16 9. On June 4, 2014, the Court granted the United States Motion to Strike the
17 Claim and Answer of Robb Cheal in its entirety. (ECF No. 40).

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

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

22 2. That judgment is hereby entered against claimants Frances Toburen aka
23 Frances L. Rothwell, Robb Cheal, and the Butte County Treasurer-Tax Collector, and all
24 other potential claimants who have not filed claims in this action.

25 3. Rick and Patti Stemple agreed to send a cashier's check in the amount of
26 \$65,375.00 to the U.S. Attorney's Office by July 1, 2014. The United States received a
27 cashier's check in the amount of \$65,375.00 from Rick and Patti Stemple on June 26, 2014.
28 All right, title, and interest in said funds shall be substituted for the defendant Vacant

1 land located in Forest Ranch, California, APN: 063-010-067-000 and forfeited to the United
2 States pursuant to 21 U.S.C. § 881(a)(7), to be disposed of according to law.

3 4. Within thirty (30) days of full payment of the \$65,375.00, the United States
4 shall record a withdrawal of lis pendens against the defendant Vacant land located in
5 Forest Ranch, California, APN: 063-010-067-000.

6 5. All right, title, and interest of Ryan C. Cheal, as Trustee of the Creekside
7 Land Trust, in the below listed defendant properties shall be forfeited to the United States
8 pursuant to 21 U.S.C. § 881(a)(7), to be disposed of according to law:

9 (a) Vacant land located in Forest Ranch, California, Butte
10 County, APN: 063-010-067-000, including all appurtenances and
11 improvements thereto, and more fully described in Exhibit A
attached hereto and incorporated herein by reference¹;

12 (b) Vacant land located on Doe Mill Road, Forest Ranch,
13 California, Butte County, APN: 063-010-061-000, including all
14 appurtenances and improvements thereto, and more fully
described in Exhibit B attached hereto and incorporated herein
by reference; and

15 (c) Vacant land located on Doe Mill Road, Forest Ranch,
16 California, Butte County, APN: 063-300-144-000, including all
17 appurtenances and improvements thereto, and more fully
described in Exhibit C attached hereto and incorporated herein
by reference.

18 6. The U.S. Marshals Service (or a designee) shall list the defendant properties
19 with APN's: 063-010-061-000 and 063-300-144-000 for sale. The U.S. Marshals Service
20 shall have sole authority to select the means of sale, including sale by internet or through a
21 licensed real estate broker, and shall have sole authority over the marketing and sale of the
22 defendant properties.

23 7. The U.S. Marshals Service shall have the defendant properties with APN's:
24 063-010-061-000 and 063-300-144-000 appraised by a licensed appraiser of its choosing.
25 The U.S. Marshals Service and the appraiser may have access to the defendant properties
26 and structures, buildings, or storage sheds thereon upon 24 hours telephonic notice.

27 ¹ The United States entered into a Stipulation for Final Judgment of Forfeiture with Rick and Patti Stemple
28 regarding APN: 063-010-067-000, wherein the government will be forfeiting \$65,375.00 in lieu of forfeiting
this parcel.

1 8. If necessary, the U.S. Marshals Service, and any real estate broker employed
2 by the U.S. Marshals Service, shall have the right to put a "lock box" on the properties with
3 APN's: 063-010-061-000 and 063-300-144-000 to facilitate the marketing and sale of the
4 properties.

5 9. The following costs, expenses and distributions shall be paid in escrow from
6 the gross sales price in the following priority and to the extent funds are available:

- 7 a. The costs incurred by the U.S. Marshals Service to the date of close of
8 escrow, including the cost of posting, service, advertising, and
9 maintenance.
- 10 b. Any unpaid real property taxes, which shall be prorated as of the date of
11 the entry of the Final Judgment of Forfeiture. As of June 30, 2014, the
12 total amount owed to the Butte County Treasurer-Tax Collector is
13 \$8,016.99 for APN: 063-010-061-000 and \$8,977.96 for APN: 063-300-
14 144-000.
- 15 c. A real estate commission not to exceed the U.S. Marshals Service
16 contractual brokerage fee.
- 17 d. To the United States of America: the entire net proceeds from the
18 sales of the defendant properties with APN's: 063-010-061-000
19 and 063-300-144-000. All right, title, and interest in said funds
20 shall be substituted for the defendant properties and forfeited to
21 the United States pursuant to 21 U.S.C. § 881(a)(7), to be
22 disposed of according to law.

23 10. Any liens or encumbrances against the defendant properties that appear on
24 record subsequent to the recording of the Lis Pendens' on February 28, 2012, and prior to
25 the close of escrow may be paid out of escrow. The United States may pay any such lien or
26 encumbrance at its sole discretion.

27 11. The costs of a lender's policy of title insurance (ALTA policy) shall be paid for
28 by the buyer.

1 12. All loan fees, "points" and other costs of obtaining financing shall be paid for
2 by the buyer of the defendant properties.

3 13. Each party shall execute all documents necessary to close escrow, if such
4 signatures are required by the title insurer.

5 14. The Butte County Treasurer-Tax Collector represented that they will not take
6 any action, or cause any other person to take any action, to damage or modify the
7 defendant properties with APN's: 063-010-061-000 and 063-300-144-000 from their present
8 condition or other action that may result in a reduction in value of the defendant
9 properties.

10 15. Any and all personal possessions and the personal possessions of any former
11 occupant on defendant properties with APN's: 063-010-061-000 and 063-300-144-000, not
12 removed upon 72 hours' notice by the U.S. Marshals Service will be disposed of by the
13 United States without further notice.

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

22 17. Each party shall bear his or her own costs and attorney's fees.

23 18. The U.S. District Court for the Eastern District of California, Hon. John A.
24 Mendez, District Judge, shall retain jurisdiction to enforce the terms of this Final
25 Judgment of Forfeiture.

26 19. Based upon the allegations set forth in the Complaint filed February 23, 2012,
27 and the Stipulations for Final Judgment of Forfeiture filed herein, the Court enters this
28 Certificate of Reasonable Cause pursuant to 28 U.S.C. § 2465, that there was reasonable

1 cause for the posting of the defendant properties and/or seizure of the sub *res*, and for the
2 commencement and prosecution of this forfeiture action.

3 SO ORDERED THIS 2nd day of July, 2014.

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5 /s/ John A. Mendez
6 JOHN A. MENDEZ
7 United States District Court Judge
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Exhibit A

Vacant land located in Forest Ranch, CA

The South half (being Lots 15 and 16) of the Southeast quarter of Section 17; the Northwest quarter of the Southwest quarter (being Lot 12) and the South half of the Southwest quarter (being Lots 13 and 14) of Section 16; and the Northwest quarter, the North half of the Southwest quarter, the Southwest quarter of the Southwest quarter and the Northwest quarter of the Northeast quarter of Section 21, all in Township 23 North, Range 3 East, M.D.B.&M.

APN: 063-010-067-000

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Exhibit B

Vacant land located on Doe Mill Road, Forest Ranch, CA

THE LAND REFERRED TO HEREIN IS DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE COUNTY OF BUTTE,
STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 23
NORTH, RANGE 3 EAST, M.D.B. & M.

EXCEPTING THEREFROM ALL MINERAL RIGHTS AS GRANTED IN THE DEED
RECORDED OCTOBER 7, 1993, UNDER BUTTE COUNTY RECORDER'S SERIAL NO.
93-43582.

APN: 063-010-061-000

Exhibit C

Vacant land located on Doe Mill Road, Forest Ranch, CA

THE LAND REFERRED TO HEREIN IS DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE COUNTY OF BUTTE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1:

THE EAST HALF OF THE EAST HALF OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 3 EAST, M.D.B. & M.

EXCEPTING THEREFROM THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 6, TOWNSHIP 22 NORTH, RANGE 3 EAST, M.D.B. & M.

ALSO EXCEPTING THEREFROM LOT 1 OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 3 EAST, M.D.B. & M.

ALSO EXCEPTING THEREFROM 50% OF ALL OIL, GAS, HYDROCARBONS, OR OTHER MINERALS AS RESERVED AND EXCEPTED IN DEED FROM WILLOUGHBY T. GRACE, ET UX., TO HAROLD J. POWERS, ET UX., RECORDED MAY 9, 1962, IN BOOK 1179 OF OFFICIAL RECORDS AT PAGE 279, BUTTE COUNTY, CALIFORNIA.

AP NO. 063-300-144-000 POR

PARCEL 2:

LOT 1 OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 3 ,EAST, M.D.B. &M.

EXCEPTING THEREFROM 50% OF ALL OIL, GAS, HYDROCARBONS, OR OTHER MINERALS AS RESERVED AND EXCEPTED IN DEED FROM WILLOUGHBY T. GRACE, ET UX., TO HAROLD J. POWERS, ET UX., RECORDED MAY 9, 1962, IN BOOK 1179 OF OFFICIAL RECORDS AT PAGE 279, BUTTE COUNTY, CALIFORNIA.

AP NO. 063-300-144-000 POR

COMMONLY KNOWN AS:
DOE MILL ROAD
FOREST RANCH, CA