

1 BENJAMIN B. WAGNER  
United States Attorney  
2 KEVIN C. KHASIGIAN  
Assistant U.S. Attorney  
3 501 I Street, Suite 10-100  
4 Sacramento, CA 95814  
Telephone: (916)554-2700

5 Attorneys for the United States  
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8 IN THE UNITED STATES DISTRICT COURT FOR THE  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA,

2:12-CV-00705-TLN-DAD

12 Plaintiff,

13 v.

14 REAL PROPERTY LOCATED AT 149 G  
15 STREET, LINCOLN, CALIFORNIA,  
16 PLACER COUNTY, APN: 008-266-015-000,  
INCLUDING ALL APPURTENANCES AND  
17 IMPROVEMENTS THERETO, et al.,

STIPULATION FOR EXPEDITED  
SETTLEMENT BETWEEN UNITED  
STATES AND LIEN HOLDER  
MECHANICS BANK REGARDING  
PROPERTY LOCATED AT 10293  
ROCKINGHAM DRIVE, RANCHO  
CORDOVA, CALIFORNIA; ORDER

18 Defendants.

19 Comes now the United States and Mechanics Bank (“Claimant”), and recites and stipulates  
20 in this Stipulation For Expedited Settlement Between United States And Lien Holder Mechanics  
21 Bank Regarding Property Located At 10293 Rockingham Drive, Rancho Cordova, California  
22 (“Stipulation”) as follows:

23 **RECITALS**

24 A. This Stipulation appertains to the real property located at 10293 Rockingham Drive,  
25 Rancho Cordova, California, Sacramento County, APN: 077-0050-044-0000, including all  
26 appurtenances and improvements thereto (“Rockingham Drive Property”). The Rockingham Drive  
27  
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1 Property is identified in Paragraph 4(i) of the Complaint. A legal description of the Rockingham  
2 Drive Property is attached hereto as Exhibit A.

3 B. In or about March 2007, Volen Properties 9, LLC requested a commercial real estate  
4 loan in the amount of \$882,000 from the Claimant. Volen Properties 9, LLC is owned by Mr.  
5 Volen. The loan was for the purpose of acquiring the Rockingham Drive Property, a 14,000 square  
6 foot office building. A \$950,000 loan was made and secured by the Rockingham Drive Property.  
7 In or about November 2009, Volen Properties 9, LLC requested a new loan in the amount of  
8 \$1,000,000 to pay off the existing loan evidenced by the \$950,000.00 Promissory Note.

9 C. On or about November 18, 2009, Volen Properties 9, LLC executed and delivered its  
10 Promissory Note in the sum of \$1,000,000. A true and correct copy of said Promissory Note is  
11 attached to Claimant's Verified Claim, Docket #5, as Exhibit G. At the time Volen Properties 9,  
12 LLC executed and delivered its Promissory Note (Exhibit G), Volen Properties 9, LLC executed  
13 and delivered to the Claimant a Deed of Trust which transferred all of the Volen Properties 9,  
14 LLC's interest in the Rockingham Drive Property to the Claimant for the purpose of securing its  
15 obligations under the \$1,000,000 Promissory Note (Exhibit G). The Deed of Trust was recorded in  
16 the official records of the Sacramento County Recorder on November 24, 2009, as document  
17 recording number: Book 20091124, page 0999. A true and correct copy of said Deed of Trust is  
18 attached to Claimant's Verified Claim, Docket #5, as Exhibit H.

19 D. In November 2009, the Claimant loaned Volen Properties 9, LLC the sum of  
20 \$1,000,000. Presently the principal balance is \$937,343.11 and interest to June 7, 2013 is  
21 \$4,556.52.

22 E. Any violations of 18 U.S.C. §§ 981(a)(1)(A) and (a)(1)(C) involving the defendant  
23 Rockingham Drive Property occurred without Claimant's knowledge or consent.

24 F. In the event that the United States establishes (i) that the Rockingham Drive Property  
25 was used to commit or facilitate the commission of a criminal offense, or was involved in the  
26 commission of a criminal offense, and that there was a substantial connection between the property  
27 and the offense; or (ii) that the Rockingham Drive Property was used to commit or facilitate the  
28 commission of a criminal offense, or was involved in the commission of a criminal offense, after

1 the Claimant acquired its interest under the Deed of Trust, the United States and Claimant agree that  
2 this Stipulation shall establish that Claimant’s interest in the Rockingham Drive Property, as  
3 evidenced by the Deed of Trust which names the Claimant as beneficiary, shall not be forfeited in  
4 accordance with the “Innocent Owner Defense” as specified in 18 U.S.C. § 983(d).

5 NOW THEREFORE, IT IS HEREBY STIPULATED by and between the United States and  
6 that Claimant as follows:

7 **STIPULATION**

8 1. In the event that the United States establishes that either (i) the Rockingham Drive  
9 Property was used to commit or facilitate the commission of a criminal offense, or was involved in  
10 the commission of a criminal offense, after the Claimant acquired its interest under the Deed of  
11 Trust on the Rockingham Drive Property; or (ii) the Rockingham Drive Property was used to  
12 commit or facilitate the commission of a criminal offense, or was involved in the commission of a  
13 criminal offense, prior to the Claimant acquiring its interest under the Deed of Trust on the  
14 Rockingham Drive Property, the Claimant’s interest in the Rockingham Drive Property, as  
15 beneficiary under its Deed of Trust, shall not be forfeited in accordance with the “Innocent Owner  
16 Defense” as specified in 18 U.S.C. § 983(d).

17 2. The United States shall not contest the validity, priority or enforceability of the  
18 Claimant’s Deed of Trust which was recorded in the official records of the Sacramento County  
19 Recorder on November 24, 2009, as document recording number: Book 20091124, page 0999,  
20 Exhibit H to Claimant’s Verified Claims. Said Deed of Trust is deemed to be a valid preexisting  
21 deed of trust lien on the Rockingham Drive Property. The Claimant’s Deed of Trust, and all rights  
22 and privileges appertaining thereto, are deemed to be superior to any interest the United States may  
23 have in the Rockingham Drive Property.

24 3. The United States and Claimant agree that upon entry of a judgment of forfeiture in  
25 favor of the United States against the Rockingham Drive Property, John Connolly IV, a receiver  
26 with knowledge and expertise in the California commercial real estate market, shall be appointed  
27 and authorized to sell the Rockingham Drive Property in a commercially reasonable manner that  
28 will obtain fair market value for the Rockingham Drive Property (the "Purchase Price").

1           4.       The following costs and expenses of sale shall be deducted from the Purchase Price  
2 and paid directly out of escrow in the following order:

3                   (a)       First, the costs incurred by John Connolly IV to the date of close of escrow,  
4 including the cost of advertising and maintenance;

5                   (b)       Second, to the Sacramento County Tax Collector for all real property taxes  
6 assessed and unpaid against the Rockingham Drive Property prorated to the date of entry of the  
7 Final Judgment of Forfeiture;

8                   (c)       Third, the costs and expenses associated with the sale of the Rockingham  
9 Drive Property;

10                  (d)       Fourth, any county transfer taxes;

11                  (e)       Fifth, to Claimant as the lender on the deed of trust encumbering the  
12 Rockingham Drive Property, as follows:

13                   (i)       all unpaid principal due to Claimant under the Promissory Note  
14 ("Note") dated November 18, 2009, with the original principal amount of \$1,000,000, which is  
15 secured by a Deed of Trust dated November 18, 2009, recorded November 24, 2009, as book  
16 20091124, page 0999 ("Deed of Trust"), in the Official Records of Sacramento County, California;

17                   (ii)       all unpaid interest, including any late charges or interest accrued at  
18 the default rate, due as of the date of the closing of the sale of the Rockingham Drive Property  
19 under the above-referenced Note and Deed of Trust until the date of payment;

20                   (iii)       all fees, costs, and advances, including but not limited to reasonable  
21 attorneys' fees, prepayment fees, taxes, and hazard insurance as provided under the terms of the  
22 Note and Deed of Trust. Presently the principal balance is \$937,343.11 and interest to June 7, 2013  
23 is \$4,556.52.

24           5.       The payment to Claimant shall be in full settlement and satisfaction of any and all  
25 claims by Claimant to the Rockingham Drive Property and all claims resulting from the incidents or  
26 circumstances giving rise to this lawsuit.

27           6.       Upon payment in full as set forth above in paragraph 4(e)(i)-(iii), Claimant agrees to  
28 reconvey its interest in the Rockingham Drive Property via recordable documents and cause those

1 to be recorded, and to release and hold harmless the United States, and any agents, servants, and  
2 employees of the United States (or any state or local law enforcement agency) acting in their  
3 individual or official capacities, from any and all claims by Claimant and their agents which  
4 currently exist or which may arise as a result of the United States' action against the real property.

5 7. In the event it is determined that the anticipated Purchase Price from the sale of the  
6 Rockingham Drive Property will be insufficient to pay Claimant in full as set forth above in  
7 paragraph 4(e)(i)-(iii), after the disbursements described above are made in paragraph 4(a)-(d), the  
8 United States agrees to release its interest in the Rockingham Drive Property and consent to the  
9 exercise of Claimant's state law rights to foreclose upon its deeds of trust that secure the obligations  
10 to Claimant. The United States shall not enter into a binding agreement to sell the Rockingham  
11 Drive Property unless the net proceeds remaining from the Purchase Price will be sufficient to pay  
12 Claimant in full as set forth above in paragraph 4(e)(i)-(iii), unless Claimant otherwise consents in  
13 writing.

14 8. In the event a default occurs on the obligations secured by the Claimant's deed of  
15 trust on the Rockingham Drive Property, the United States and Claimant shall jointly request that  
16 this Court appoint John Connolly IV as receiver to manage and sell the Rockingham Drive  
17 Property. Said property shall be sold by the receiver in the manner set forth above in paragraphs 3  
18 and 4.

19 9. Claimant agrees to notify the U.S. Attorney's Office by the end of the first payment  
20 cycle in which a payment is not made under the terms of the \$1,000,000 Promissory Note and  
21 related loan documents. If Claimant should fail to notify the U.S. Attorney's Office of any late or  
22 missed payments, such failure shall not constitute a breach of this Stipulation, nor shall Claimant  
23 face any consequences as the result of such failure.

24 10. Claimant shall join any motions by the United States for interlocutory or stipulated  
25 sale of the Rockingham Drive Property if the proceeds of such sale will be sufficient to pay  
26 Claimant in full as set forth in paragraphs 4(e)(i)-(iii), and shall either join or not oppose, at its  
27 discretion, any motions to remove occupants from the property for nonpayment of mortgage or rent,  
28 destruction of property, or other just cause.

1           11.     Except for the rights and benefits established by the terms of this Stipulation,  
2 Claimant waives any rights to further litigate against the United States concerning its interest in the  
3 Rockingham Drive Property or to petition for remission or mitigation of the forfeiture.

4           12.     Unless otherwise provided by this Stipulation or specifically directed by order of this  
5 Court, Claimant is hereby excused and relieved from further participation in this action.

6           13.     The United States and the Claimant agree to execute further documents, to the extent  
7 reasonably necessary, to implement the terms of this Stipulation and convey marketable title to the  
8 Rockingham Drive Property to the United States in the event the Rockingham Drive Property is  
9 forfeited to the United States.

10          14.     There are no other terms or conditions other than those specified within.

11          15.     In the event that one party asserts that the other party has breached this Stipulation,  
12 or failed to comply with any term of this Stipulation, the parties hereby agree that the U.S. District  
13 Court for the Eastern District of California, Hon. Troy L. Nunley, District Judge, shall retain  
14 jurisdiction to enforce the terms of this Stipulation.

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Dated: June 11, 2013

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Dated: June 10, 2013

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BENJAMIN B. WAGNER  
United States Attorney

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

JEFFER MANGELS BUTLER &  
MITCHELL LLP

By: /s/ John A. Graham  
JOHN A. GRAHAM  
Attorneys for Claimant Mechanics Bank

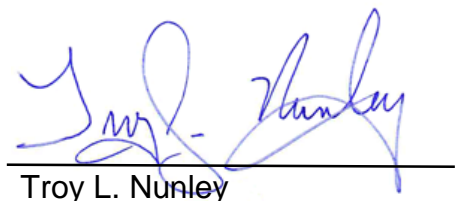
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**ORDER**

The Stipulation is hereby APPROVED.

DATED: June 11, 2013



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Troy L. Nunley  
United States District Judge

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**Exhibit A**

Real property at 10293 Rockingham Drive, Rancho Cordova, CA

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RANCHO CORDOVA, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Parcel No.1:

Lots 2 and 3, as shown on that certain "Parcel Map Entitled A Portion of Lot 43, Natomas American River Subdivision 4", recorded in Book 60 of Parcel Maps, at Page 2, records of said County,

EXCEPTING THEREFROM: The West 125.34 feet of said Lot 1.

APN: 077-0050-044-0000

Parcel No. 2:

Non-exclusive easement for ingress and egress of vehicles and pedestrians described as follows:

The easterly 9.00 feet of the westerly 125.34 feet of Lot 2 as shown on that certain parcel map entitled "A portion of Lot 53, Natomas American River Subdivision No.4", according to the official plat thereof, filed in the Office of the Recorder of Sacramento County, California on September 2, 1980 in Book 60 of Parcel Maps, Map No.2.