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

2:12-CV-00705-TLN-DB  
 REQUEST TO APPOINT SUCCESSOR  
 RECEIVER; ORDER

18  
 19 **I. INTRODUCTION**

20 This Court previously appointed Dave Flemmer as a receiver to manage and liquidate several  
 21 real properties forfeited by Bart Volen based on their connection to Volen’s fraud against the United  
 22 Auburn Indian Community (UAIC). *See* ECF No. 151. Mr. Flemmer successfully sold several of the  
 23 forfeited properties, but two properties have yet to be resolved.<sup>1</sup> As more fully explained in another  
 24 case in this district where Mr. Flemmer served as a trustee involving funds held in constructive trust,  
 25 (United States v. Wilson, Case 2:08-CR-00114), Mr. Flemmer suddenly passed away three weeks ago.

26  
 27 <sup>1</sup> The unsold properties are: (1) 149 G Street, Lincoln, California, APN: 008-266-015-000, and (2) 1199  
 Pacific Highway, Unit 406, San Diego, California, APN: 533-471-12-27.

1 In Wilson, this Court appointed Robert C. Greeley, an experienced bankruptcy receiver with an  
2 accounting background, as successor trustee to Mr. Flemmer and Mr. Greeley will complete the  
3 disbursement of funds held in constructive trust to victims. *See* ECF No. 325 (Wilson). The United  
4 States similarly seeks the appointment of Mr. Greeley as successor receiver to Mr. Flemmer in this case  
5 so that Mr. Greeley can manage and liquidate the remaining properties forfeited from Bart Volen.

6 This forfeiture case was resolved pursuant to a stipulation between the parties, which Bart  
7 Volen executed as part of his plea agreement in the companion criminal case, United States v. Bart  
8 Volen, et al., 2:12-CR-00294-TLN.

## 9 **II. REQUEST**

10 The United States seeks to continue Mr. Flemmer's scope of appointment for Mr. Greeley's  
11 successor role. On October 18, 2016, this Court entered the final judgment of forfeiture and ordered  
12 that "the Receiver shall be authorized to do the following regarding the defendant properties":

- 13 a. Consult and coordinate with existing tenants, accept rental  
14 payments, and enter into leasehold agreements for continued  
tenancy;
- 15 b. Coordinate and hire vendors to provide maintenance, common  
16 area upkeep, and yard maintenance;
- 17 c. Interview prospective tenants and enter into leasehold  
18 agreements;
- 19 d. Consult and coordinate with county tax officials and any local  
20 entities regarding applicable property taxes, levies, penalties, or  
21 HOA dues;
- 22 e. Coordinate and obtain any insurance required to preserve the  
23 value of the real properties, to include general liability and rental  
24 insurance;
- 25 f. Order appraisals, consult with valuation professionals, and take  
26 other necessary and reasonable steps to properly value the real  
27 properties. The Receiver and the appraiser may have access to the  
28 defendant properties and structures, buildings, or storage sheds  
thereon upon 24 hours' telephonic notice;
- g. List the defendant properties for sale and have the sole authority  
to select the means of sale, including sale by internet or through a  
licensed real estate broker, and have the sole authority over the  
marketing and sale of the defendant properties; and
- h. The Receiver and/or the IRS shall deduct their costs incurred to

1 date of close of escrow, including the cost of posting, service,  
2 advertising, and maintenance from the net proceeds after payment  
3 of the costs associated with selling each property, unpaid property  
4 taxes, and any liens or judgments owed prior to recording of Lis  
5 Pendens. The United States may pay any such lien or  
6 encumbrance at its sole discretion.

7 ECF No, 151.

8 The United States seeks the same powers for Mr Greeley in the instant case, with one  
9 expansion: the United States seeks to expand the scope of Mr. Greeley's appointment to permit access  
10 to the bank accounts Mr. Flemmer used in connection with the management and sale of the properties  
11 forfeited from Volen. The United States Attorney's Office understands that access is currently blocked  
12 and a court order will facilitate the unblocking of the account.

13 Mr. Greeley's resume and representative matters are attached as Exhibit A.

14 Dated: 4/7/17

15 PHILLIP A. TALBERT  
16 United States Attorney

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

20 **ORDER**

21 Mr. Robert Greeley is HEREBY APPOINTED as successor receiver to manage and liquidate  
22 the properties forfeited from Bart Volen.

- 23 a. Consult and coordinate with existing tenants, accept rental  
24 payments, and enter into leasehold agreements for continued  
25 tenancy;
- 26 b. Coordinate and hire vendors to provide maintenance, common  
27 area upkeep, and yard maintenance;
- 28 c. Interview prospective tenants and enter into leasehold  
agreements;
- d. Consult and coordinate with county tax officials and any local  
entities regarding applicable property taxes, levies, penalties, or  
HOA dues;
- e. Coordinate and obtain any insurance required to preserve the

1 value of the real properties, to include general liability and rental  
2 insurance;

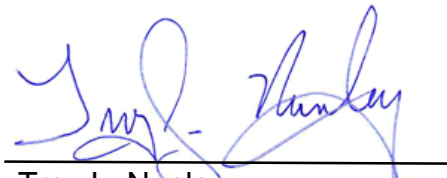
3 f. Order appraisals, consult with valuation professionals, and take  
4 other necessary and reasonable steps to properly value the real  
5 properties. The Receiver and the appraiser may have access to the  
6 defendant properties and structures, buildings, or storage sheds  
7 thereon upon 24 hours' telephonic notice;

8 g. List the defendant properties for sale and have the sole authority  
9 to select the means of sale, including sale by internet or through a  
10 licensed real estate broker, and have the sole authority over the  
11 marketing and sale of the defendant properties; and

12 h. The Receiver and/or the IRS shall deduct their costs incurred to  
13 date of close of escrow, including the cost of posting, service,  
14 advertising, and maintenance from the net proceeds after payment  
15 of the costs associated with selling each property, unpaid property  
16 taxes, and any liens or judgments owed prior to recording of Lis  
17 Pendens. The United States may pay any such lien or  
18 encumbrance at its sole discretion.

19 i. The Receiver shall have access to the trust accounts used by  
20 Receiver David Flemmer to manage and liquidate the properties  
21 forfeited from Bart Volen, as set forth in the Final Order of  
22 Forfeiture dated October 18, 2016.

23 SO ORDERED THIS 18<sup>th</sup> day of April, 2017.

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Troy L. Nunley  
United States District Judge