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

10 UNITED STATES OF AMERICA,

2:12-CV-00811-TLN-EFB

11 Plaintiff,

SECOND AMENDED  
 FINAL JUDGMENT OF  
 FORFEITURE

12 v.

13 REAL PROPERTY LOCATED AT 705  
 14 THROUGH 709 SOUTH CALIFORNIA  
 STREET, STOCKTON, CALIFORNIA, SAN  
 15 JOAQUIN COUNTY, APN: 149-084-06,  
 INCLUDING ALL APPURTENANCES AND  
 16 IMPROVEMENTS THERETO,

17 Defendant.

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 19 This Second Amended Final Judgment of Forfeiture supersedes the “Amended Final  
 20 Judgment of Forfeiture” (entered on September 17, 2013). It is noted that no “Final  
 21 Judgment of Forfeiture” was entered before the Court entered the aforementioned  
 22 Amended Judgment of Forfeiture.

23 Pursuant to the Stipulation for Final Judgment of Forfeiture, the Court finds:

24 1. This is a civil forfeiture action against the following real property located at  
 25 705 through 709 South California Street, Stockton, California, San Joaquin County, APN:  
 26 149-084-06, including all appurtenances and improvements thereto (the "Defendant  
 27 Property"), and more fully described in Exhibit A attached hereto and incorporated herein  
 28 by reference.

1           2.     On March 29, 2012, the United States filed a Verified Complaint for  
2 Forfeiture *In Rem* (“Complaint”), alleging the Defendant Property is forfeitable to the  
3 United States pursuant to 21 U.S.C. § 881(a)(7).

4           3.     On March 30, 2012, the Defendant Property was posted with a copy of the  
5 Complaint and Notice of Complaint.

6           4.     Beginning on May 4, 2012, for at least 30 consecutive days, the United States  
7 published Notice of the Forfeiture Action on the official internet government forfeiture site  
8 [www.forfeiture.gov](http://www.forfeiture.gov). A Declaration of Publication was filed on June 21, 2012.

9           5.     In addition to the public notice on the official internet government forfeiture  
10 site [www.forfeiture.gov](http://www.forfeiture.gov), actual notice or attempted notice was given to the following  
11 individuals:

- 12           a.     Sam Luigi Toccoli
- 13           b.     Alexandre Toccoli
- 14           c.     Lisa Toccoli Stenard
- d.     Albert Toccoli

15           6.     On April 30, 2012, claimants Sam Luigi Toccoli, Lisa Toccoli Stenard, and  
16 Albert Toccoli (hereafter “Claimants”) filed verified claims alleging an interest in the  
17 Defendant Property. On May 1, 2012, Claimants filed answers. No other parties have filed  
18 claims or answers in this matter, and the time in which any person or entity may file a  
19 claim and answer has expired.

20           7.     On August 8, 2012, the Clerk of the Court entered a Clerk's Certificate of  
21 Entry of Default against Alexandre Toccoli. Pursuant to Local Rule 540, the United States  
22 requests, and Claimants do not oppose, that as part of the final judgment of forfeiture in  
23 this case, the Court enter a default judgment against the interest, if any, of Alexandre  
24 Toccoli without further notice.

25           8.     While this action was pending, a fire occurred on the Defendant Property. As  
26 a result of the fire, an insurer paid Claimants for damage to the property resulting from  
27 the fire. In this action, the United States sought forfeiture of those fire insurance proceeds,  
28 contending those proceeds constituted part of the res in this civil forfeiture action.

1 Claimants contested that claim, contending that the fire insurance proceeds were not part  
2 of the res and could not be made part of the res in this civil forfeiture action. Also while  
3 this action was pending, claimants received a written offer to buy the defendant property.

4 9. On September 13, 2013, the United States and Claimants filed a Stipulation  
5 for Final Judgment (the "Stipulation"), reflecting their agreement as to the terms on which  
6 the issues between them in this litigation could be resolved.

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

9 1. The Court adopts the Stipulation entered into by and between the United  
10 States and Claimants.

11 2. On September 12, 2013, the United States received a cashier's check in the  
12 amount of \$220,000.00 from claimants. All right, title, and interest of claimants Sam Luigi  
13 Toccoli, Lisa Toccoli Stenard, and Albert Toccoli in said funds shall be substituted for the  
14 Defendant Property as the res in this proceeding and forfeited to the United States  
15 pursuant to 21 U.S.C. § 881(a)(7), to be disposed of according to law.

16 3. Judgment of forfeiture is entered as to all potential claimants who have not  
17 filed claims in this action. As a result of that judgment of forfeiture, no such potential  
18 claimant shall be permitted to make a claim to the Defendant Property and/or the res in  
19 this proceeding (i.e., the \$220,000 Claimants have remitted to the United States).

20 4. Within ten days of the entry of this Second Amended Final Judgment of  
21 Forfeiture, the United States shall submit for recording a Notice of Withdrawal of Lis  
22 Pendens against the Defendant Property.

23 5. Payment of the \$220,000.00 and the entry of this Judgment will resolve the  
24 United States' entire forfeiture action against the Defendant Property, including the  
25 United States' claim to the fire insurance proceeds referenced above.

26 6. Pursuant to the terms of the Stipulation, the United States and its servants,  
27 agents, and employees and all other public entities, their servants, agents, and employees,  
28 are released from any and all liability to Claimants arising out of or in any way connected


1 with the filing of the Complaint and the posting of the Defendant Property with the  
2 Complaint and Notice of Complaint. This is a full and final release applying to all  
3 unknown and unanticipated injuries, and/or damages arising out of or in any way  
4 connected with the filing of the Complaint and the posting of the Defendant Property with  
5 the Complaint and Notice of Complaint, as well as to those now known or disclosed.  
6 Claimants waived the provisions of California Civil Code § 1542.

7 7. Pursuant to the Stipulation and the allegations set forth in the Complaint  
8 filed on March 29, 2012, the Court finds there was reasonable cause for the posting of the  
9 Defendant Property, and for the commencement and prosecution of this forfeiture action,  
10 and a Certificate of Reasonable Cause pursuant to 28 U.S.C. § 2465 shall be entered  
11 accordingly.

12 8. Each of the parties, particularly including the United States and Claimants, is  
13 to bear his/her/its own costs and attorneys' fees.

14 9. The U.S. District Court for the Eastern District of California shall retain  
15 jurisdiction to enforce the terms of this Second Amended Final Judgment of Forfeiture.


16 SO ORDERED THIS 19<sup>th</sup> day of September, 2013.

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Troy L. Nunley  
United States District Judge

20 CERTIFICATE OF REASONABLE CAUSE

21 Based upon the allegations set forth in the Complaint filed March 29, 2012, and the  
22 Stipulation for Final Judgment of Forfeiture filed herein, the Court enters this Certificate  
23 of Reasonable Cause pursuant to 28 U.S.C. § 2465, that there was reasonable cause for the  
24 posting of the Defendant Property, and for the commencement and prosecution of this  
25 forfeiture action.

26 DATED: September 19, 2013

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Troy L. Nunley  
United States District Judge

**EXHIBIT A**

1 Real property located at 705 through 709 South California Street, Stockton, CA

2 The South 50 feet of each of Lots Eight (8), Ten (10) and Twelve (12), in Block D  
3 East of Center Street, in the said City of Stockton, according to the Official Map or  
4 Plat thereof, San Joaquin County Records.

5 Also that certain parcel of land formerly included within Scott's Avenue adjoining  
6 these premises on the South; Bounded on the North by the south line of Block "D"  
7 EAST OF CENTER STREET; on the East by the West line of California Street; on  
8 the West by the East line of Sutter Street, and on the South by the North line of  
9 Block twenty-five (25), SOUTH OF MORMON CHANNEL in the said City of  
10 Stockton, according to the Official Map or Plat thereof, San Joaquin County  
11 Records.

12 EXCEPT the West 150 feet thereof conveyed to Union Building and Realty  
13 Company, a corporation, by deed recorded July 26, 1956, in Vol. 1888 of Official  
14 Records, page 521.

15 Also Excepting the Southerly 25.03 feet thereof.

16 APN: 149-084-06  
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