

1 PHILLIP A. TALBERT
 United States Attorney
 2 PATRICK J. SUTER
 Assistant United States Attorney
 3 2500 Tulare Street, Suite 4401
 Fresno, California 93721
 4 Telephone: (559) 497-4000
 5 Facsimile: (559) 497-4099
 6 Attorneys for Plaintiff
 United States

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

11 UNITED STATES OF AMERICA,
 12 Plaintiff,
 13 v.
 14 W. RICHARD GARBRICK,
 15 Defendant and Judgment Debtor.
 16 CENTURY LIGHTING & ELECTRIC,
 (and its Successors and Assignees)
 17 Garnishee.
 18

No. 2:17-mc-0035-WBS-DB

**STIPULATION AND ORDER FOR FINAL
 ORDER OF CONTINUING GARNISHMENT**

Criminal Case No. 2:02CR00459

19
 20 Plaintiff United States and the Defendant and Judgment Debtor W. Richard Garbrick
 21 (collectively the "Parties"), hereby stipulate to a final resolution of the United States' pending
 22 garnishment action against Mr. Garbrick as follows:

23 1. On May 19, 2004, the Court convicted and sentenced Defendant in criminal case number
 24 2:02CR00459-WBS. The Judgment ordered Defendant to pay a \$300 special assessment and
 25 \$397,200.00 in restitution. Criminal Case Docket Entry ("DE") No. 21.

26 2. To collect the restitution, the United States filed an Application for Writ of Continuing
 27 Garnishment on February 24, 2017. Miscellaneous Case DE No. 3.

1 3. The Clerk issued a Writ of Continuing Garnishment on February 28, 2017. DE No. 5

2 4. The United States thereafter served the Garnishee and the Judgment Debtor with the Writ
3 and its attachments. Misc. DE Nos. 4.

4 5. Century Lighting & Electric filed its Acknowledgment of Service and Answer of
5 Garnishee (the “Answer”) to the writ on March 6, 2017. The Answer identifies Defendant as a wage-
6 earning employee and states it served Defendant on March 3, 2017, with a copy of the Answer. Misc.
7 DE No. 8

8 6. The Answer states that the Defendant receives bi-weekly gross wages in the amount of
9 \$3,269.24. After tax and other withholdings, Defendant receives bi-weekly net wages in the amount of
10 \$2,758.45. *Id.* This net allowance represents Defendant’s non-exempt, disposable wage earnings
11 arising from his employment with Century Lighting & Electric. Century Lighting & Electric has been
12 withholding twenty-five percent (25%) of Defendant’s non-exempt, disposable earnings since the date
13 they received the Writ of Continuing Garnishment. The twenty-five percent (25%) withholding amount
14 comports with the Consumer Credit Protection Act’s 25% garnishment cap on debtor’s non-exempt
15 disposable earnings. 15 U.S.C. § 1673(a)(1).

16 7. By way of this Stipulation, the Parties consent to have the United States Magistrate Judge
17 issue a Final Order of Continuing Garnishment in this matter.

18 8. The Parties agree to stipulate to ten percent (10%) of the Defendant’s future disposable
19 bi-weekly income starting from the date the garnishee receives the final order of continuing
20 garnishment.

21 9. The Parties further stipulate to an annual review of Defendant’s financial condition, with
22 the Defendant completing a financial statement and provide the required supporting documentation to
23 assist this office in determining if an increase to the percentage of the garnished amount is appropriate.
24 The periodic increase shall continue until the full 25% withholding is established, and will continue until
25 the restitution has been paid in full, or an agreement has been made between this office and the
26 Defendant.

27 ///

28 ///

1 10. The Parties agree that Century Lighting & Electric shall pay to the Clerk of the court the
2 total sum of the monies currently held by the garnishee from the date they received the Writ of
3 Continuing Garnishment to the date of the Final Order of Continuing Garnishment.

4 11. To effectuate this agreement, the Parties agree that the Court can and should enter a Final
5 Order of Continuing Garnishment against the non-exempt disposable earnings of Defendant, W. Richard
6 Garbrick, and accordingly, the Court can and should enter an order directing the garnishee, Century
7 Lighting & Electric to pay to the Clerk of the United States District Court:

8 A. All non-exempt disposable wages, earnings, bonuses, and commission presently
9 being withheld pursuant to the date Century Lighting & Electric received the writ of continuing
10 garnishment; and thereafter,

11 B. Ten percent (10%) of Defendant's future bi-weekly non-exempt disposable
12 wages, to include bonuses and/or other types of compensation, including the cashing out annual/vacation
13 and/or sick leave, and commission based earnings, and to pay those funds via cashier's check, money
14 order or company draft, to the Clerk of the Court on a monthly basis.

15 12. Defendant, by way of this Stipulation, waives his right to request a hearing and/or any
16 claim of exemption(s).

17 13. By signing this Stipulation, the Defendant consents to jurisdiction by a Magistrate Judge
18 pursuant to 28 U.S.C. §§ 636(b)(3) and 636(c)(1), to enter a Final Stipulated Order of Garnishment in
19 this matter.

20 FOR THE UNITED STATES OF AMERICA:

21 PHILLIP A. TALBERT
22 United States Attorney

23 Dated: April 20, 2017

24 By: /s/ Patrick J. Suter
25 PATRICK J. SUTER
26 Assistant United States Attorney

27 FOR THE DEFENDANT AND JUDGMENT DEBTOR:

28 Dated: April 18, 2017

By: _____
W. RICHARD GARBRICK, in pro per

ORDER

The Court, having reviewed its files and the Parties Stipulation for Final Order of Continuing Garnishment (the “Stipulation”), (ECF No. 10), and good cause appearing therefrom, hereby APPROVES the Stipulation. Accordingly, IT IS SO ORDERED that:

1. The Parties’ Stipulation for an order of continuing garnishment (wages) for the Garnishee, Century Lighting & Electric, to pay at least monthly to the Clerk of the United States District Court, from the date they receive this Order, ten percent (10%) of Defendant W. Richard Garbrick’s (“Defendant”) future disposable wages, earnings, commissions, bonuses and compensation until: the restitution in the amount of \$397,200.00 is paid in full; further order of this Court; or Century Lighting & Electric no longer has custody, possession or control of any property belong to Defendant is GRANTED.

2. Garnishee, Century Lighting & Electric, shall DELIVER, within fifteen (15) days of the filing of this Order, via cashier’s check, money order or company draft all monies which represents the withheld garnished non-exempt, disposable wages from March 1, 2017, the date they received the Writ of Continuing Garnishment, to the date they receive this Final Order of Continuing Garnishment.

3. Century Lighting & Electric is further ORDERED to provide to the United States with written notice if the amount or form of compensation to Defendant changes while this order is in effect or if Century Lighting & Electric no longer has custody, possession or control of Defendant’s property.

4. Payments must be made via money order, cashier’s check or company draft, and the payment instrument must be made payable to the “Clerk of the Court” and delivered to the United States District Court, Eastern District of California, Clerk of the Court, 501 I Street, Room 4-200, Sacramento, California 95814. Century Lighting & Electric shall also state the criminal docket number (Case No. 2:02CR00459) on the payment instrument.

////

////

////

////

1 5. Defendant, W. Richard Garbrick, shall comply with requests for updated financials and
2 provide supporting documentation to the United States Attorney's Office for review to determine
3 appropriate percentage increases to fulfill his restitution obligation.

4 DATED: May 1, 2017

/s/ DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28